

# HHS Grants Policy Statement

~~Effective date: July 24, 2025~~

DEPARTMENT OF HEALTH & HUMAN SERVICES

Effective date: October 1, 2025

This HHS Grants Policy Statement (GPS) replaces all prior versions.  
Contact ~~grantpolicyreg~~GrantPolicyReg@hhs.gov with GPS feedback.

(Added graphics)



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## Version 2.0: Outline of changes from previous Version 1.0

Version 2.0 of the Health and Human Services (HHS) Grants Policy Statement (GPS), effective October 01, 2025, supersedes previous versions of the HHS GPS.

On October 1, 2025, HHS adopts 2 CFR 200 with HHS-specific modifications at 2 CFR 300. This version of the HHS GPS removes all references to 45 CFR 75 and updates these references to reflect new requirements in 2 CFR 200 and 300.

Version 2.0 includes the following updates:

- All references to 45 CFR 75 were updated to new regulations at 2 CFR 200 and 2 CFR 300.
  - Changes to reflect the transition to 2 CFR 200 in this version of the GPS include, but are not limited to:
    - Updated acronyms, terminology, and definitions to align with 2 CFR 200.
      - For example, this version updates terminology to change "awarding agency" to "agency," changes "match" to "cost share," etc.
    - Updated citations, which include additional detail in some sections, such as those related to cost sharing, personal property, closeout costs, and termination.
    - Included new HHS specific modifications, such as Appendix IX covering Hospital Cost Principals, HHS conflict of interest policies, and special provisions to states and commercial organizations.
    - Updated prior approval requirements to align with those outlined in 2 CFR 200.308.
- Other changes not related to 2 CFR 200 include:
  - Chapter 2.5.4.3 includes a Title IX certification requirement and updated non-discrimination language.
  - Chapter C.8.10.3 includes updates to SBIR/STTR data rights language.
  - General updates to Appendix D: Administrative and National Policy Requirements.
- Minor plain language changes to grammar, syntax, and consistency in citations and links.

NOTE: In the interim period between the publication of this version of the GPS and October 1, 2025, links to specific citations in 2 CFR 300 will be inactive. These links will not publish in the CFR until October 1, 2025. In the meantime, the text that will publish at 2 CFR 300 can be found in Federal Register Notice 89 FR 80055.

## **Chapter 1: Introduction and General Information**

The Grants Policy Statement (GPS) is incorporated by reference in the official Notice of Award (NoA) as a standard term and condition.

The GPS provides information on HHS agencies that make awards, the award process, and where to find and apply for awards. The GPS also provides information about the legal and regulatory rules that apply to your award and will be used for enforcement purposes. The GPS will be updated to reflect changes in law and policy.

The latest version of the GPS is ~~at [www.hhs.gov/grants/grants/grants-policies-regulations/index.html](http://www.hhs.gov/grants/grants/grants-policies-regulations/index.html)~~ on the HHS Grant Policies and Regulations Webpage and it includes:

- Introduction and General Information
- Pre-Award
- Post-Award
- Single Audit
- Appendices
  - ~~A. Awarding Agency~~ Agencies Overview
  - ~~B. Abbreviations~~ Acronyms and Glossary
  - ~~C.~~ Post-Award Considerations by Type of Program, Activity, or Recipient
  - ~~D.~~ HHS Administrative and National Policy Requirements
  - ~~E.~~ Financial Assistance General Certifications and Representations

### **1.1: Supersession**

This GPS replaces the HHS Grants Policy Statement dated ~~January 1, 2007.~~

~~April 2025. It This GPS reflects the current 45 CFR part 75 regulation and eight flexibilities from 2 CFR part 200 (effective October 1, 2024). It will be updated in 2025 to reflect the HHS adoption of 2 CFR part 200 in its entirety and the retention of certain 2 CFR 200 and HHS specific provisions in at 2 CFR part 300. regulations, effective on October 1, 2025.~~

From this date on, HHS plans to update the GPS annually to make sure it reflects changes in statutes, regulations, and policies.

### **1.2: Applicability**

The ~~2024~~ HHS GPS Version 2.0 applies to awards and award modifications that add funding made on or after ~~April 16~~ October 01, 2025. This includes supplements to award, competing and non-competing continuations. The GPS applies to all HHS discretionary recipients, except for NIH, and the requirements flow down to subrecipients.

The HHS GPS does not apply to awards made by the National Institutes ~~for~~ of Health (NIH). For NIH awards, please see the National Institutes of Health Grants Policy Statement (NIHGPSNIH GPS), which

is the policy document describing the requirements that serve as the terms and conditions of NIH awards.

~~The HHS GPS does not apply to non-discretionary awards or to awards made to individuals. HHS agencies have the discretion to apply certain parts of the GPS to non-discretionary awards and other policies to your non-discretionary or individual award.~~

Other than Appendix D, HHS Administrative and National Requirements, the HHS GPS does not apply to non-discretionary awards. It does not apply to awards made to individuals. HHS agencies have the

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discretion to apply certain parts of the GPS to non-discretionary awards and other policies to your non-discretionary or individual award.

Agencies that administer HHS awards include:

- Administration for Children and Families (ACF)
- Administration for Community Living (ACL)
- Agency for Healthcare Research and Quality (AHRQ)
- Assistant Secretary for Planning and Evaluation (ASPE)
- Assistant Secretary for Preparedness and Response (ASPR)
- Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology (ASTP)
- Centers for Disease Control and Prevention (CDC)
- Centers for Medicare & Medicaid Services (CMS)
- Food and Drug Administration (FDA)
- Health Resources and Services Administration (HRSA)
- Indian Health Service (IHS)
- National Institutes of Health (NIH)
- Office of the Assistant Secretary for Health (OASH)
- Office of the Inspector General (OIG)
- Substance Abuse and Mental Health Services Administration (SAMHSA)

See [Appendix A](#) for more information.

### **1.3: Requirements**

The following impose requirements on your award and are addressed in the GPS:

- [The](#) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for ~~HHS~~[Federal](#) Awards ~~(45 at 2 CFR § 75)~~[200](#)
- ~~Eight provisions of~~[HHS-Specific Modifications to](#) the Uniform Administrative Requirements, ~~Cost Principles, and Audit Requirements for Federal Awards (~~[at 2 CFR § 200](#)~~)~~[300](#)

~~1. 2 CFR § 200.1 Modified Total Direct Cost Definition, Equipment Definition, Supplies Definition~~

~~2. 2 CFR § 200.313(e) Equipment Disposition~~



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~~3. 2 CFR § 200.314(a) Supply Disposition~~

~~4. 2 CFR § 200.320 Micro-purchase Threshold~~

~~5. 2 CFR § 200.333 Fixed Amount Subawards Amount~~

~~6. 2 CFR § 200.344 Closeout Provisions~~

~~7. 2 CFR § 200.414(f) Indirect Cost Rate Provisions~~

~~8. 2 CFR § 200.501 Audit Provisions~~

- The Notice of Award (NoA)
- The Notice of Funding Opportunity (NOFO), if stated in the NOA

Other regulations or statutes with more requirements might apply to your award. These include:

- Grants for Research Projects [42 CFR ~~part~~ 52](#)

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- Procedures of the Departmental Grant Appeals Board [45 CFR ~~part~~-16](#)
- Claims Collection [45 CFR ~~part~~-30](#)
- Equal Treatment for Faith-Based Organizations [45 CFR ~~part~~-87](#)
- Restrictions on Lobbying [45 CFR ~~part~~-93](#)
- Metric Conversion Policy for Federal Agencies [15 CFR ~~part~~-273](#)
- Public Health Service Policies on Research Misconduct [42 CFR ~~part~~-93](#)
- Protection of Human Subjects, [45 CFR ~~part~~-46](#)

See [Appendix D](#) for more information.

## 1.4: Terms and Conditions

HHS states the requirements of an award in the award terms and conditions:

- The GPS is incorporated by reference as a standard term and condition of awards.
- The NoA includes all terms and conditions of a specific award.
- Notice of Funding Opportunities (NOFOs) describe program requirements, which may be included as terms and conditions.

## 1.5: Types of HHS Awards

Awards fall into two main types:

- Discretionary: HHS chooses who gets the award and how much. Selection of these awards are generally competitive. The amount of an award can be competitive or by a set formula. Types of discretionary awards include research, training, services, construction, and conference support.
- Non-discretionary: A statute determines the recipients and amounts, either directly or by a formula (i.e., each State gets an award of a certain amount). This includes block grants and entitlement programs.

## 1.6: Award Instruments

Award instruments are legal agreements between an ~~awarding~~ agency and a recipient. The two kinds ~~generally~~ addressed in the GPS are:

- Grants: The ~~awarding~~ agency is not substantially involved in the project ([31 USC 6302, 6304](#)).
- Cooperative agreements: The ~~awarding~~ agency is substantially involved in the project ([31 USC 6302, 6305](#)).

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## **1.7: Roles and Responsibilities**

This section highlights roles and responsibilities. The GPS supplies more details throughout.

### **1.7.1: Recipient Roles and Responsibilities**

Recipients manage performance and funds. Required roles are:

- Authorized Organizational Representative (AOR): The AOR has authority to act for the organization and is responsible for meeting award requirements, properly managing the award, and providing oversight. The AOR's signature on a grant application guarantees that the information in the application is correct and the organization is responsible for following all requirements.
- Principal Investigator or Project Director (PI/PD): The PI/PD is the individual(s) designated by the recipient to direct the project or program being supported by the award. The PI/PD is responsible and accountable to officials of the recipient organization for the proper conduct of the project, program, or activity.

### **Awarding 1.7.2: Agency Roles and Responsibilities**

HHS is responsible to Congress and U.S taxpayers for carrying out its mission in a cost-effective and compliant way. The HHS agencies that administer awards have grants offices and staff designated to conduct this work. The roles and responsibilities of HHS staff (at each ~~awarding~~ agency) include:

- Grants Management Officer (GMO): The GMO is the official who handles the ~~non-~~  
~~program~~non- program parts of an award for the HHS agency. The GMO is the focal point for receiving and acting on requests for prior approval or for changes in the terms and conditions of award. The GMO is the only official authorized to obligate the HHS ~~awarding~~ agency to the expenditure of federal funds or to change the funding, duration, or other terms and conditions of an award.
- Grants Management Specialist (GMS): Acts as the main grants administration contact for recipients. Handles administrative activities on behalf of the GMO. The GMS contact information can be found on the NoA.
- Project Officer or Program Official (PO): Responsible for the programmatic, scientific, and technical sides of award programs, including oversight and monitoring. The PO contact information can be found on the NoA.
- Review Administrator (RA): Provides oversight of the application review process, although not all agencies have this role.

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## **Chapter 2: Pre-Award**

This section helps you find funding opportunities, prepare, and apply.

## **2.1: Locating Funding Opportunities**

Agencies announce competitive funding opportunities. All discretionary Notice of Funding Opportunities are listed on [Grants.gov](https://www.grants.gov). There are three other ways to find more information about HHS financial assistance.

### **2.1.1: Grants.gov, Forecasts, and the Notice of Funding Opportunity (NOFO)**

HHS policy requires maximum competition for discretionary grants to the greatest extent possible. As such, HHS agencies promote the widest and earliest possible spread of information through forecasts of upcoming grant opportunities and NOFOs. ~~Awarding agencies~~ [Agencies](#) post discretionary or competitive NOFOs at [Grants.gov](https://www.grants.gov).

[Grants.gov](https://www.grants.gov) ~~forecasting~~ is the direct way to find NOFOs. NOFOs are usually open for at least 60 days. Only rarely are they open for fewer than 30 days.

Because HHS aims for the widest and earliest possible spread of information, HHS agencies post future opportunities on Grants.gov through forecasts. Forecasts may be posted weeks or months before NOFOs. Forecasted NOFOs can be found in the [Grants.gov](https://www.grants.gov) search page by clicking the “forecasted” button. Forecasts include helpful information such as:

- expected number of awards
- estimated award amounts
- description of the program
- estimated NOFO posting date
- estimated application due date
- estimated project start date and period of performance

#### **2.1.1.1: How to Subscribe to HHS Grants Forecast**

When you create a Grants.gov account, you can customize the type of email notifications you receive. Log in and then go to [the subscription page](#) to sign up for news updates about system enhancements, notifications about saved searches, new funding opportunities, and more.

### **Awarding 2.1.2: Agency Websites**

Most ~~awarding~~ agencies have award web pages. See [Appendix A](#).

### **2.1.3: SAM.gov and Assistance Listings**

Assistance listings are public descriptions of federal assistance programs. All assistance listings are included on the System for Award Management (SAM.gov), a site run by the U.S. General Services Administration. Search assistance listings at [SAM.gov](https://www.sam.gov).

## **2.2: Preparing to Apply**

The first step is to read the entire NOFO and the links in it. Each part of the NOFO sets out basic information for that award.



To apply, you must:

- be an eligible entity
- address the NOFO requirements
- submit a complete and compliant application by the deadline(s)

### **2.2.1: General Eligibility Considerations**

In general, HHS awards may be made to domestic public or private, non-profit or for-profit organizations. Foreign or international organizations are eligible for research awards, or if expressly authorized by law.

The NOFO includes specific eligibility criteria and any requirements to prove eligibility. Applicant eligibility criteria for all HHS NOFOs are almost always based on statute or program regulation.

HHS policy requires open competition to the greatest extent possible. Restricting eligibility, as compared to statute or program regulations, is only done with appropriate justification in rare cases.

Agencies review applications for eligibility when they receive them. The AOR signature generally serves as assurance of eligibility, unless additional proof of eligibility is required in the NOFO. If the applicant is not eligible, the application will not be reviewed.

### **2.2.2: Additional Eligibility Restrictions**

#### **2.2.2.1: Concurrent Applications**

You cannot apply for funding for the same project or activities from multiple HHS Public Health Service (PHS) agencies at the same time. If you do, your applications will be returned. See [Appendix A](#) for a list of PHS agencies.

#### **2.2.2.2: Suspension, Debarment, and Exclusion**

Agencies are required to check [SAM.gov](https://www.sam.gov) for individuals and organizations that are debarred, suspended, declared ineligible, or voluntarily excluded from receiving HHS award funds. HHS will not give awards to or pay these individuals and entities, including [as](#) recipients and subrecipients. If such an individual is involved in an award, costs like their salary are not allowed.

Applicants must disclose if any of the following conditions apply to their organization, planned staff or principals (as defined in [2 CFR § 180.995](#)), including Principal Investigators (PIs), and other key personnel:

- Are currently excluded or disqualified~~;~~
- Were convicted within the previous three years of any offenses listed in [2 CFR § 180.800\(a\)](#) or had a civil judgment for one of those offenses during that time~~;~~

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- Are currently indicted for or otherwise facing criminal or civil charges by a governmental entity (federal, state, or local) for any of the offenses listed in 2 CFR ~~§-180.800(a)~~; ~~or,~~
- Have had any public transactions (federal, state, or local) terminated within the previous three years for cause or default.

Recipients of HHS awards must also make subrecipient organizations and subrecipient participants follow federal Debarment and Suspension regulations ([2 CFR ~~part 376~~](#) and [2 CFR ~~part 180~~](#)). These participants can include:

- Consortiums
- Subcontracts
- Consultants
- Collaborators
- Contractors that require the provision of goods or services that will equal or exceed
- \$25,000

These subrecipients must also make sure that anyone they hire with award funds follow the same rules. Before entering into an agreement, these participants should tell the award recipient if he, she, or any principals are excluded or disqualified at that time.

Ultimately, it is the job of the applicant or recipient to make sure none of the subrecipient and principals involved are excluded or disqualified. Award recipients cannot make a transaction with someone who is disqualified unless they get an exception under the disqualifying statute, Executive Order, or regulation from HHS.

For more information, see Suspension and Debarment at [452 CFR ~~§ 75.213~~ 200.214](#), [2 CFR ~~part 180~~](#) and [2 CFR part 376](#).

### **2.2.2.3: Delinquency on Federal Debt**

If an entity or individual owes money to the U.S. with a lien, they cannot get an award. Applicants must state in their applications whether they are delinquent on any federal debts. Agencies may delay awards until federal debts are settled.

Do not include a person in the application if they have unpaid federal debts with a lien. Agencies will disallow costs for these individuals.

See [28 U.S.C. 3201\(e\)](#).

### **2.2.2.4: Lobbying Prohibition**

Applicants must certify they will not use federal funds to pay any person to influence agency staff, Congress members, and officers or employees of Congress about federal awards.

Applicants with total proposed costs of more than \$100,000 must certify that they:

- have not made unallowable lobbying payments<sup>7.3</sup>
- will be responsible for reporting on non-federal funds used for lobbying<sup>7.3</sup>

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- will include these requirements in consortium agreements, subawards, and contracts of more than \$100,000 under their award.

See [2 CFR ~~part~~ 93](#), [2 CFR ~~§~~ 200.450](#), and the [SF-424](#) for more about lobbying requirements.

## **2.3: HHS Application Process**

### **2.3.1: Types of Applications**

HHS uses these application types:

- New application: A request for funds for new activities. It can be competitive or not.
- Non-competing continuation application: A request for funds for the next budget period(s) within a period of performance. Agencies provide an NoA with new budget details.
- Competing continuation or renewal application: A request to continue a project that is ending with a new period of performance. This is competitive.
- Supplemental application: A request for more funds in the current budget period. This can be for changes in the project scope, expansion of already approved activities, or for unexpected costs.
- Revised application: A previously not funded application updated and submitted again for review.

### **Pre-applications and 2.3.2: Letters of Intent**

Before a full application, an agency might ask for: [a pre-application or Letter of Intent \(LOI\)](#).

- Pre-applications: Used to filter out applicants that ~~will be unlikely to receive~~ [are ineligible for funding through an objective review. This saves time before writing a full application.](#)
- Letters of Intent: Agencies might want notice that you plan to apply. This is usually optional and doesn't mean you have to apply. It's mostly to gauge interest and help the HHS agency estimate how many applications to expect.

### **2.3.3: Application Forms**

Forms and instructions are on [Grants.gov](#). You can find a NOFO's required forms in the application package in Grants.gov. The NOFO is your best source when completing forms. The NOFO agency contact, located on the NOFO, can answer any questions you may have.

### **2.3.4: Application Budgets**

You will need to include a budget as part of your application. Some applications require a detailed budget. The NOFO will describe the budget requirements. For HHS budgets, applicants and recipients need to understand:

- The costs allowable under the program

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- The relevant cost principles
- The difference between direct and indirect costs
- When you need an indirect cost rate or research patient care cost rate, and
- Any ~~matching or~~ cost sharing requirements

Project costs include allowable direct costs plus allocable indirect costs, minus applicable credits. See below Cost Principles, Direct Costs and Indirect Costs sections of the GPS.

Cost allowability is subject to the governing statute, program regulations, and award terms and conditions. There are situations when HHS will not reimburse indirect costs.

#### **2.3.4.1: Cost Principles**

Developing an application budget depends on understanding what costs are allowable under HHS financial assistance programs.

For more information about how cost principles apply to your organization, see [452 CFR § 75.401-200.401](#).

This section on cost principles interprets the regulations at [452 CFR part 75200](#) and is not all-inclusive.

Cost

principles:

- Establish general standards for the allowability of costs.
- Provide guidance on treating costs as direct or indirect.
- Provide principles for selected items of cost.

The cost principles apply to all recipients.

You can use your own accounting system to implement the cost principles if you meet the standards for financial management systems at [452 CFR § 75.302-200.302](#).

The federal-wide cost principles are in [452 CFR part 75200, subpart E. The](#)

~~The~~ cost principles for:

- Hospitals are at [452 CFR part 75200 Appendix IX](#)
- For-profit organizations are at [48 CFR § 31.2](#)

If specifically identified, use the applicable cost principles for your type of organization. Cases where the cost principles do not apply are listed in [452 CFR § 75.401-200.401\(a\)](#).

#### **2.3.4.2: Is It Allowed?**

As the HHS agency official for the non-program parts of awards, the Grants Management Officer (GMO) makes the final determination on allowability.

For all allowability requirements, see [452 CFR § 75.403-200.403](#).

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Following is a summary. A cost is allowable if all the following apply:

- It is necessary and reasonable for award performance<sup>2</sup>.
- It complies with any limitations or exclusions in the cost principles or the federal award about types or amounts of cost items<sup>2</sup>.
- It is consistent with policies and procedures across all recipient activities, regardless of source of funding<sup>2</sup>.
- It is consistent across all activities in identifying direct and indirect costs<sup>2</sup>.



- It follows generally accepted accounting principles (GAAP). See 452 CFR § 75.403200.403(e) for exceptions.
- It is not used for cost-sharing requirements of another federally financed program, unless specifically allowed by law.
- You maintain required documentation, and
- Administrative closeout costs may be charged until the due date of the final report.

#### **2.3.4.3: Is It Reasonable?**

For all reasonableness requirements see 452 CFR § 75.404200.404. Following is a summary.

Considerations for reasonableness include:

- If the cost is generally recognized as ordinary and necessary.
- The requirements of:
  - Sound business practices
  - Arm's-length bargaining
  - Federal, state, local, tribal, and other laws and regulations
  - Terms and conditions of the federal award
- If the cost aligns with market prices for comparable goods or services in the geographic area.
- The cost does not significantly deviate from your established practices and policies regarding such costs, regardless of source of funding.

### ***Allocability***

#### **2.3.4.4: Allocability**

Allocability in grants means costs that can be applied to your award. For all allocability requirements see 452 CFR § 75.405200.405. Following is a summary.

A cost is allocable if any of the following apply:

- It is spent only for the work under a federal award.

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- It benefits both the federal award and other recipient work and can be distributed using reasonable methods.
- It is necessary to your overall operations and can be assigned to the federal award.

**2.3.4.5: Direct and Indirect Costs**

Costs can be direct or indirect:

- Direct costs: Directly related to the cost of the project or project activities. These costs are based on actual expenses or easily estimated accurately. Examples of direct costs are generally salaries, travel, equipment, and supplies directly for grant activities.
  - Indirect costs: Not readily tied directly to the project or project activities. If a cost is indirect, it cannot also be listed as a direct cost for any federal award. Examples may be facilities operation and maintenance costs, depreciation, and administrative

expenses. You must have or negotiate an indirect cost rate to reimburse indirect costs.

See ~~452 CFR §§ 75.413-414~~200.413-200.414, and ~~452 CFR § 200.414~~300.414.

#### **2.3.4.6: Indirect Cost Rates**

As stated above, indirect costs are for common activities that cannot be specifically tied to a particular project. Examples include facilities operation and maintenance costs, depreciation, and administrative expenses. You must treat costs as direct or indirect consistently.

Indirect costs are allowable under most HHS awards and are charged as a rate. There are three ways indirect costs may work:

- (1) Specified rate. The rate may be specified in statute, regulations, or policy. If this is so, the difference between the specified rate and the negotiated rate can satisfy ~~match or~~ cost sharing requirements. There are ~~three~~two HHS-specific specified rates to consider:
  - o Training grants, including career awards, are limited to 8%.
  - o Indirect costs to foreign organizations and foreign public entities when the awarded work is performed fully outside of the territorial limits of the U.S. are limited to 8%.
- (2) Negotiated Indirect Cost Rate Agreement (NICRA). You can negotiate a rate with your cognizant federal agency. If the cognizant agency is HHS, a rate is negotiated by Program Support Center Cost Allocation Services (CAS) or the Division of Financial Advisory Services (DFAS) in the NIH Office of Acquisition Management and Policy (responsible for negotiating indirect cost rates for for-profit recipients). Indirect cost proposals must use the applicable cost principles and cognizant agency guidance.
  - o See ~~452 CFR part 75, 200 Appendix III~~ for institutions of higher education~~.~~
  - o See ~~452 CFR part 75, 200 Appendix IV~~ for non-profits~~.~~
  - o See ~~452 CFR part 75, 200 Appendix V~~ for state and local government cost allocation plans~~.~~
  - o See ~~452 CFR part 75, 200 Appendix VI~~ for public assistance~~.~~

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- See 452 CFR part 75, 200 Appendix VII for ~~state~~states and local governments and Indian Tribe indirect cost ~~plans,~~proposals
- (3) De minimis rate. If you do not have a NICRA or other specified indirect cost rate, you can use the de minimis rate indefinitely. We are applying the newly revised rate, in 2 CFR § 200.414(f), of 15% of modified direct costs. Modified direct costs are salaries and wages, fringe benefits, materials and supplies, services, travel, and no more than \$50,000 of each subaward, minus some exclusions. See 2 CFR § 200.2200.12 for the full definition. See 2 CFR § 200.414 for more on the de minimis rate.

The de minimis rate is not applicable for some recipients. These recipients include governmental agencies that receive more than \$35 million in direct funding and Indian tribal governments. See 2 CFR part 200 Appendix VII ~~to § 200 (D-)(1-)(b).~~

**2.3.4.6.1; Exclusions**

Some HHS awards and recipients are not eligible for indirect cost reimbursement. This will be described in the NOFO.

Indirect costs are not paid for:

- grants • ~~Grants~~ to federal institutions, ~~452 CFR § 75.217~~ 300.219(b)(3).
- ~~Grants to individuals, including fellowships, scholarships, traineeships, or fixed amounts like educational allowances or tuition and fees, 45 CFR § 75.2 (Definition of Micro-Purchase Threshold).~~

**2.3.4.7; Pass-through Entities**

Pass-through entities must use their subrecipient's federal NICRA. A 15% de minimis rate may be used if there is no federally negotiated agreement. See 2 CFR § 200.414.

**2.3.4.8; Salary Rate Limit (SRL)**

Generally, the HHS Appropriations Act includes an SRL. This statutory requirement limits the amount of funds under a grant or other extramural mechanism that can be used to pay individual salaries (including executive salaries) at a rate above the Executive Level II. Recipients may pay salaries at a rate higher than the Executive Level II if the amount beyond the HHS SRL is paid with non-HHS funds not associated with the HHS awarded project. Since the Executive Level II rate and HHS Appropriations Act citation changes each year, HHS refers to the Office of Personnel Management (OPM) posting the most recent information at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/exec/html/EX.aspx>.

The HHS SRL applies to:

- ~~The majority of~~ Awards funded by the HHS section of the annual Appropriations Act (most HHS awards.)
- Both direct and indirect costs under applicable HHS awards.

Effective October 1, 2024, when HHS is the cognizant agency for indirect costs or when HHS is acting as the shared-service provider for another cognizant agency for indirect costs, the HHS component that reviews and negotiates indirect cost rate proposals and cost allocation plans will issue NICRAs that

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incorporate the HHS SRL, to comply with the HHS Appropriations Act requirement.

Beginning with HHS awards, including continuation and supplemental awards, made on or after October 1, 2024, HHS recipients that do not have an approved indirect cost rate that complies with the HHS SRL requirement must take and document the following actions:

- Identify any HHS award where HHS funds are used to pay any salary that exceeds the SRL using the HHS award. This includes both direct and indirect costs, both in whole and any portion of a salary that at a full-time equivalent exceeds the SRL.
- Have written policies and procedures that ensure the recipient does not draw down HHS award funds, whether as direct or indirect costs, to pay for salaries above the HHS SRL.

This may occur because the NICRA was issued before October 1, 2024, and it is not yet up for renewal, OR because the NICRA was issued by another cognizant agency for indirect costs that does not have an identical SRL.

A recipient may request a companion rate on the NICRA from HHS that does not incorporate the HHS SRL if:

- HHS is their cognizant agency for indirect costs or HHS is the shared-service provider for their cognizant agency for indirect costs; and
- The recipient is applying for an award from another Federal agency or from a program not subject to the HHS SRL.

#### **2.3.4.9: Cost Sharing**

Cost sharing refers to project costs that are not funded by the HHS agency. It is also sometimes called “match.”

Cost sharing can be voluntary or can be required by statute or regulation.

NOFOs include information about:

- Whether there is required or voluntary cost sharing
- The agency's approach to looking at cost sharing during the application review
- Any caps on the agency's portion of total award costs
- Any restrictions on the types of funding that are acceptable as cost-sharing (e.g., ~~in-kind~~ in-kind contributions)
  - Required documents, like commitment letters

See more on cost-sharing requirements at ~~452 CFR § 75.306~~ 200.306.

##### 2.3.4.9.1: Cost Sharing Waiver for the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands

HHS waives all requirements for local matching funds under \$200,000 for grants to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, unless

otherwise directed by any other provision of law.

For local matching funds \$200,000 and greater, HHS agencies may waive the matching requirement for awards to these four areas.

HHS agencies may choose to waive matching funds of any amount for any grants to the Trust Territory of the Pacific Islands.

See 48 U.S.C. 1469a(d) and 48 U.S.C. 1469a(d) note (Public Law 96-205, title VI, section 601).

#### **2.3.4.10: Program Income and Third-Party Reimbursement**

Program income is money a recipient earns that is both:

- Earned during the period of performance
  - Earned directly from an activity funded by the award or due to the award

This can include money earned from things like:

- Services performed under the award,
- Renting property bought with award funds,
- Selling items made with award funds,
  - ~~Third-party reimbursement, such as payments for health services, and fees based on ability to pay,~~
- Principal and interest on loans made with award funds, ~~and~~
- Royalties from patents and copyrights.



It does not include:

- Interest earned on advances of Federal funds or things like rebates, credits, discounts, and interest earned on any of them unless stated otherwise in the NOFO or NoA.

The full definition for program income is found at [452 CFR ~~§ 75.2~~ 200.1](#) “Program ~~income~~Income”.

In addition to being encouraged to earn income to defray program costs when appropriate, program income must be used for the original purpose of your award.

NOFOs might ask for estimated program income in the budget. NOFOs explain how to use expected program income.

There are no requirements for what to do with income earned after the end of the award period of performance, unless the NOFO or NoA says otherwise.

See more on the treatment of program income at [452 CFR ~~§ 75.307~~ 200.307, 2 CFR 300.218, and 2 CFR 300.219](#).

### **2.3.5: Unique Entity Identifier (UEI) and ~~Registering~~registering in SAM.gov**

Every applicant needs a Unique Entity ID (UEI) from [SAM.gov](#).

- For a new UEI, register on SAM.gov. You'll get an email when it's active. This can take time.
- If you already have a UEI, renew on SAM.gov yearly.
- Keep your SAM registration details current.
- Make sure that your SAM registration is accurate for both contracts and grants.

For more information, see [Get Ready for Grants Management](#) at HHS.gov.

### **2.3.6: State and Local Review Requirements**

Federal rules allow state and local governments and health agencies to review and comment on applications. You will find the requirements in the NOFO. There are two types of reviews:

- Intergovernmental review. [Executive Order 12372](#) and [45 CFR ~~part~~ 100](#) allow for intergovernmental review by state and local governments through the State Single Point of Contact (SPOC).
- Public health system reporting. This reporting provides state and local health agencies with information on applications by health care delivery programs. If a state or local health official wants to review a full application, the official contacts the SPOC.

Contact your SPOC to learn more. Find SPOCs at [on the ~~Office of Management and Budget website~~](#) [HHS Grants Policies and Regulations webpage under HHS Intergovernmental Review](#). Not all states have this process.

## **2.4: Applying**

In almost all cases, you will need to submit applications online. All HHS agencies are required to post their competitive NOFOs on Grants.gov and will also post there how to apply online.

Agencies will not review applications that are from ineligible applicants, incomplete, are not compliant, or are not responsive to program requirements.

Send your application by the NOFO's deadline. If you are late, it will almost always be deemed non-compliant and will not be reviewed.

The AOR's signature on an application certifies that:

- The information in it is truthful, complete, and accurate<sup>7.2</sup>
- The applicant will comply with all required certifications and assurances<sup>7.2</sup>
- The applicant will comply with terms and conditions when accepting an award<sup>7.2</sup> and
- The non-federal entity is aware that any false, fictitious, or fraudulent statements or claims may subject the applicant to criminal, civil, or administrative penalties.

Some agencies might allow paper or email submissions. The NOFO will explain exemption requests. These are rare.

PLEASE NOTE: Applicants must register with Grants.gov. For how to register with Grants.gov, see [Registering an Organization](#) or contact the Grants.gov contact center at 1-800-518-4726 or [support@grants.gov](mailto:support@grants.gov). Registering can take up to one month.

## **2.5: Application Receipt and Review**

### **2.5.1: Initial Eligibility Review**

The ~~awarding~~ agency screens applications for eligibility. Unless the NOFO requires specific proof of eligibility, the AOR's application certification is enough.

### **2.5.2: Use of Application Information**

Agencies protect your application information during merit review and in accordance with laws like the [Freedom of Information Act](#) and [Privacy Act of 1974](#). Once awarded, the government can only use or share data as federal law allows. To help safeguard your information:

- Avoid sharing personally identifiable information-
- Only add confidential information if necessary

[See GPS section 3.4.11.2 Access to Data and Research Data.](#)

~~See the Access to Research Data section of the GPS.~~

### **2.5.3: Merit Review**

Merit review is a review by those with expertise in the programmatic subject matter area for the submitted applications.

Applications for discretionary programs, whether received in response to a NOFO, requested from a single source (very rare), or received as an unsolicited request for grant funding, will go through a merit review. [\(Please note, HHS does not guarantee unsolicited applications will be accepted. Therefore, they may or may not go through a merit review.\)](#)

The merit review provides recommendations to the individuals responsible for making award decisions. Merit review is necessary to make sure HHS chooses applications that best meet the needs of

the program. These needs must be based on what the NOFO says about what makes a successful application.

Peer review is a form of merit review. Reviewers are peers with expert knowledge about how the program topic. Sometimes, the program statute may tell us which type of reviewers to pick or how a review should happen.

#### **2.5.4: Award Risk and Business Review**

Before award, agencies do pre-award risk and business reviews of applications. These can include:

- Cost analysis of the budget
- Assessment of management systems
- Final review of applicant eligibility

- Compliance with public policy requirements

During this review, the agency might request more details or actions from you.

Following review, officials make decisions about making the award, adding special conditions, and funding level.

#### **2.5.4.1: Cost Analysis**

HHS agencies careful review of the applicant budget includes:

- a review of the cost breakdowns
- a check to make sure the cost data in the application is correct
- an overall review of the costs for need for and the reasonableness and allowability of proposed costs

The review depth depends on project complexity, applicant prior experience, and other factors.

#### **2.5.4.2: Management System Analysis**

Applicants must have systems, policies, and procedures in place to manage award funds and activities. HHS agency staff take a close look at your financial and business management systems. This review includes property management and procurement systems and helps ensure:

- Applicant organizations apply policies and procedures consistently, regardless of funding source<sup>7</sup>; and
- Systems meet the standards and requirements in ~~452~~ CFR ~~§ 75.302~~ 200.302, Financial Management.

#### **2.5.4.3: Civil Rights Assurance**

Domestic recipients, subrecipients, and contractors must file Form HHS 690, Assurance of Compliance once with the HHS Office for Civil Rights (OCR). It is not needed for each application.

The recipient must ensure that subrecipients and contractors have filed the form.

By applying for or accepting federal funds from HHS, recipients certify compliance with all federal antidiscrimination laws and these requirements and that complying with those laws is a material condition of receiving federal funding streams. Recipients are responsible for ensuring subrecipients, contractors, and partners also comply.

All recipients subject to Title IX requirements must also adhere to the following term:

By accepting this award, including the obligation, expenditure, or drawdown of award funds, recipient certifies as follows:

- Recipient is compliant with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., including the requirements set forth in Presidential Executive Order 14168 titled Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal

Government, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and recipient will remain compliant for the duration of the Agreement.

- The above requirements are conditions of payment that go to the essence of the Agreement and are therefore material terms of the Agreement.
- Payments under the Agreement are predicated on compliance with the above requirements, and therefore Recipient is not eligible for funding under the Agreement or to retain any funding under the Agreement absent compliance with the above requirements.
- Recipient acknowledges that this certification reflects a change in the government's position regarding the materiality of the foregoing requirements and therefore any prior payment of similar claims does not reflect the materiality of the foregoing requirements to this Agreement.
- Recipient acknowledges that a knowing false statement relating to Recipient's compliance with the above requirements and/or eligibility for the Agreement may subject Recipient to liability under the False Claims Act, 31 U.S.C. § 3729, and/or criminal liability, including under 18 U.S.C. §§ 287 and 1001

#### **2.5.4.4: Human Subjects and Animal Welfare Assurance**

If IRB review and approval is required but still pending at the time of award, agencies will restrict human subjects research until they get and approve the needed proof. Additional information is available on the [Office of Human Research Protections](#) website. This includes a series of [decision charts](#) to help assess whether an activity is human subjects research covered by the regulation and when an exemption may apply.

Before getting an award, if applicants plan to use vertebrate animals, they must send an [Animal Welfare Assurance](#) to HHS' Office of Laboratory Animal Welfare. This confirms that a committee has reviewed the parts of the application related to animals.

#### **2.5.5: Communicating Decisions**

Agencies inform applicants about their decisions in various ways:

- Award: If you are getting an award, you will receive a Notice of Award (NoA).
- Denial: If the agency decides not to fund your application, the AOR gets a letter.



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- Approved unfunded: Sometimes, despite a good review, there's not enough funds.

The ~~awarding~~ agency could keep your application for future funding. The ~~awarding~~ agency will notify the AOR that your application is approved but unfunded.

- Revised application eligibility: If not successful, the NOFO might allow you to adjust and reapply later. However, some agencies cap the number of revisions and retries.

You cannot appeal a denial<sub>e</sub> or the amount of funds awarded.

## **2.6: The Notice of Award**

The Notice of Award is a legal instrument. See [452 CFR § 75.210](#)~~200.211~~ for the contents of an NoA.

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## **2.6.1: Accepting the Award**

Once accepted, the contents of NoAs are binding.

Applicants become recipients when the NoA is signed by the ~~awarding~~ agency's Chief Grants Management Officer (CGMO) or his/her delegate. The recipient accepts an award by drawing down funds.

HHS expects recipients to draw down funds in the first 30 days of the period of performance. If you fail to draw down funds in a timely manner or justify the delay in your acceptance of the award, HHS may take further action to amend or withdraw your award.

### **2.6.1.1: Declining or Negotiating Awards**

During the time between the NoA being signed and the drawing down of funds, if you can no longer accept an award or ~~you~~ need to negotiate any award parts, tell the ~~awarding~~ agency. If no agreement is reached, the agency will cancel the award. You cannot challenge the agency's decisions on the terms and conditions.

## **2.6.2: Periods of Performance**

HHS uses the period of performance system for funding awards. Funding is provided in approved yearly increments called budget periods. The total period of performance includes the initial competitive

segment, any additional segments authorized by approved continuation applications, and any no-cost extensions.

A competitive segment usually will be no longer than five years, not including no-cost extensions. A single federal award for the entire period of support may be used if the project is only construction or modernization or if the total planned project will be less than 18 months.

The ~~awarding~~ agency will determine the length of the period of performance based on:

- Any statutory, regulatory, or administrative requirements<sup>7.2</sup>
- The length of time requested by the applicant<sup>7.2</sup>
- Any time limits on the period of performance recommended by merit review<sup>7.2</sup>
- The frequency of merit review<sup>7.2</sup> ~~and~~
- The funding principles as specified in the NOFO.

The NoA generally approves a period of performance that goes beyond the current budget period, showing the HHS ~~awarding~~ agency's intention to continue providing support. Funding for future budget periods is not guaranteed at the level shown on the current NoA. There is no legal obligation for HHS ~~awarding~~ agencies to provide funding beyond the end date of the current budget period in the NoA.

Recipients must submit a continuation application or annual report to get approval and funding for each new budget period within the approved period of performance. The HHS agency will make its decision to fund the next budget period by issuing a NoA which shows the new budget period and amount of new funding. Funding is based on adequate performance, availability of funding, and ~~the best interests of the federal government~~ program goals and agency priorities.

Budget periods usually last 12 months. However, they may be shorter or longer based on programmatic or administrative needs. The NoA will show the total approved budget for the applicable budget period. This includes direct costs, applicable indirect costs, and any required ~~matching or~~ cost sharing.

### **2.6.3: Costs in the NoA**

The initial NoA and each subsequent NoA provide details of the award<sup>4</sup> and the amount awarded. After the initial budget period, NoAs may reflect any authorized carryover and amounts previously awarded for the full period of performance. The amount awarded is shown either as total direct and indirect costs ~~and/or~~ as a categorical (line item) budget breakdown. This is based on the requirements in the NOFO.

Recipients have certain rebudgeting flexibility within the overall amount awarded. However, the total amount awarded is the maximum amount the ~~awarding~~ agency is obligated to pay under that award. Once an award is made, the HHS ~~awarding~~ agency is not required to provide any supplemental or additional funding.

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## **Chapter 3: Post-Award**

As a recipient, you will manage HHS awards and activities including:

- Project performance, ~~452~~ CFR § 75.301 ~~200.301~~ and 2 CFR § 200.202

- Use of award funds
- Compliance with award terms and conditions
  - Issuing and monitoring subawards per ~~452 CFR § 75.352~~

~~200.332~~ Recipient internal controls and policies must meet ~~452 CFR § 75.303~~ 200.303.

~~Awarding agency~~ Agency staff monitor recipients for compliance, performance, and need for technical assistance. Reviews include:

- Recipient reports
- Financial and progress reports
- Audit reports
- Correspondence,
- Onsite and remote site visits, ~~and~~
- Other information:

The Notice of Award supplies HHS contact information and instructions for reporting.

## **3.1: Changes to Awards**

### **3.1.1: Prior Approvals**

At times, you may need to make changes to the program budget or activities. Some changes require prior written approval. To find out if a change needs prior approval:

- Carefully review your NoA.
- Review ~~452 CFR § 75.407~~ 200.407 for actions needing prior approval.
- Review Appendix E of the GPS for prior approval requirements for certain types of awards.
- Ask your GMS if you are not sure.
- Ask your cognizant agency for indirect costs if you have questions about changes to indirect costs. The cognizant agency is the federal agency that approved your indirect cost proposal.

#### **3.1.1.1: Seeking Prior Approval**

Once you know that you need prior approval, you can request it from your GMS. Prior approval requests must include:

- Recipient name



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- Principal investigator (PI) or project director (PD) and authorized organizational representative (AOR) name
- PI or PD and AOR telephone numbers and e-mail addresses

You must send your prior approval requests in writing, by mail, prior approval system, or email. It must:

- Be signed by the AOR (if sent in an email, attach the signed letter/memo)
- Include any necessary supporting documentation
- Get to the ~~awarding~~ agency in enough time for approval before making the change

Once received, the ~~awarding~~ agency GMO or his or her designee will review and approve or deny the request:

- If the GMO or GMS decides the change does not actually require prior approval, the ~~awarding~~ agency must promptly inform you.
- If prior approval is required, the GMS will send a decision to the AOR with a copy to the PI or PD within 30 calendar days of receipt.

Only the GMO or GMS, as the GMO's delegate, can issue written approval. Informal answers are not valid.

There is no appeal for denial of a prior approval request.

If costs or actions that require prior approval are detailed in an application, the award's issuance based on that application serves as the prior approval authorization. For indirect cost components, prior approval must come from the relevant agency or as per the associated cost principles.

### **3.1.1.2: Subrecipient Prior Approvals**

The recipient has the authority to give prior approval for changes to sub-award or contract activities or budget. This does not include any action inconsistent with the award purpose or terms and conditions. The ~~awarding~~ agency must approve any actions that will result in a change to project scope. Ask the GMS if you have questions about a proposed change.

## **3.1.2: Budget and Scope Changes**

### **3.1.2.1: Minor Budget Changes**

Within a budget period, you can adjust your budget without prior approval if:

- The change is within or between approved direct cost categories.
- Your award's federal share is below the simplified acquisition threshold, and your NoA doesn't include a prior approval need. Check the current threshold in the [Federal Acquisition Regulation \(FAR\) at 2.101, Definitions](#).

Recipients should ensure that they have appropriately documented budget changes as part of the grant record.

### **3.1.2.2: Significant Budget Changes**

~~Significant budget changes require prior approval when they constitute a change of scope or exceed 25 percent of total direct costs of the last approved budget period. When you are not clear if your budget change is beyond the scope, call your GMS.~~

Significant budget changes in line with 2 CFR 200.308(i) require prior approval. Budget changes are considered significant when:

- Your award exceeds the simplified acquisition threshold (set by 48 CFR 2.101), and
- The cumulative amount you want to transfer between direct cost categories is expected to be more than 10 percent of the total budget.

If both conditions apply, you need to request prior approval. To calculate the total budget, use the last total budget amount approved by the agency, including cost share.

See 2 CFR 200.308(i).

### **3.1.3: Expanded Authority**

If expanded authority is not granted in your NoA, you do not have it. To know if you have any expanded authorities:

- Review your NoA. Expanded authorities may be adopted by reference.
- Review your specific award conditions. These may include expanded authorities or limits on them.

When using expanded authorities as granted in the NoA, make sure you follow award requirements and the cost principles. All changes are subject to monitoring, audit, and related remedies for noncompliance. See the section below.

~~For a full understanding, see 45 CFR § 75.308(d)(1).~~ Expanded authorities may include:

- Waiving the prior approval requirements in 452 CFR part 75.200, except for those listed in 452 CFR § 75.308 200.308(e)(1); and
- Three specific waivers in 452 CFR § 75.308 200.308(dg), including:
  - Incurring project costs up to 90 calendar days before award. Doing so is at the recipient's risk.
  - Carrying forward unobligated balances to the next budget period unless the funds are currently restricted. You need prior approval to carry forward any unobligated balance to any budget period other than the next budget period.
  - Initiating a one-time extension of the period of performance by up to 12 months unless any of the following are true:
    - The extension requires additional federal funds
    - The extension involves any change in the approved project objectives or scope

Recipients may not use a one-time extension only to use unobligated balances.

Please Note: For awards that support research, unless your ~~awarding~~ agency provides other instructions in the NoA in general or because it is part of a regulation, the three specific waivers above (in 452 CFR § 75.308

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200.308(dg)) are automatic and noted in your NoA.

Several expanded authorities have specific deadlines for reports or notification. If a recipient consistently fails to meet them, the ~~awarding~~ agency may stop their ability to use them. Be sure to read your NoA carefully or ask your GMS if you have questions about expanded authorities under your award.

### **3.1.4: Extensions to Awards**

The ~~awarding~~ agency may provide more time and funds after ~~an~~the award ~~is made~~. The two types of extensions are:

- No-cost extensions: A time extension without more funds.
- ~~Funding~~Funded extension ~~with funds~~: A time extension with added funds.

#### **3.1.4.1: No-Cost Extensions**

HHS agency prior approval is required for no-cost extensions, unless provided as an expanded authority. See 2 CFR 200.308.

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When prior approval is required, the recipient must request the no-cost extension no less than 10 days prior to the end of the budget period in the last year of the period of performance.

In cases where there is expanded authority, the recipient must notify the HHS agency in writing with the supporting reasons and a recommendation for revised period of performance at least ~~30~~10 calendar days before the end of the period of performance in the original NoA. [See 2 CFR 200.308\(g\)\(2\).](#)

Regardless of whether approval is required, no-cost extensions are not meant to just spend unobligated funds. The purpose of a no cost extension is to:

- complete the project;
- provide for an orderly shutdown, or
- in some cases, provide a bridge to the next award.

If using expanded authority, and you do not need permission, you must tell the ~~awarding~~ agency.

#### **3.1.4.2: Reminders for All Extensions**

- You can't extend a period already lengthened by the ~~awarding~~ agency.
- Award terms and conditions still apply during the extended time.
- No matter the extension length, you must keep sending required reports as set out in your award.
- You must update all necessary certifications and assurances, including those about human subjects and animal welfare, following relevant rules and policies.
- A second extension longer than 12 months should be rare and will need special justification.
- If the agency denies an extension, you cannot appeal it.

#### **3.1.4.3: Supplemental Funding Extension Without Change in Scope**

A recipient may request supplemental funding with an extension of time without a change in scope that is under 25% of the total approved budget or \$250,000, whichever is less, for the period of performance. These extensions are not competitive. Approving a request is at the discretion of the agency and depends on availability of funds.

#### **3.1.4.4: Supplemental Funding Extension with Change in Scope**

For supplemental funding and an extension of time with a change in scope, you must submit the request at least 30 days before the period of performance ends. The request must include the proposed revised ending date and justify both the extension and any additional funds. These extensions are not competitive. However, the HHS agency will conduct a merit review and will have to internally justify the award.

### **3.1.5: Transferring Major Work to A Subrecipient**

#### **3.1.5.1: Non-Pass-Through Programs**

For these awards, you have a substantial project role and cannot just be a conduit for another party.

Before transferring major or substantive work to a subrecipient not in the approved application, you must get prior approval. This does not apply to buying or obtaining regular goods or services.

When asking for prior approval, include:

- What activities or tasks you want to transfer.
- Why a third party should do them.
- A detailed cost estimate and reasons, including any indirect costs and their reimbursement method.
- How you'll choose the subrecipient.
- The type of subaward planned.
- The types of organizations you'll solicit. If you've already chosen one, name it and explain why.

### **3.1.5.2: Pass-Through Recipient**

A pass-through recipient means a non-Federal recipient that provides a subaward to a subrecipient to carry out part of a Federal program. In a pass-through program, the recipient:

- Chooses subrecipients to deliver services.
- Coordinates and oversees their activities
- Gives needed administrative support to meet ~~awarding~~ agency requirements.

For these programs, you don't need prior approval to give a subaward.



### **3.1.6: Change in Recipient or Recipient Status**

The following section addresses policies for changes in recipient organization, scope, status of key personnel, and organizational status.

#### **3.1.6.1: Change of Recipient Organization**

To transfer the legal and management responsibility of an award to another organization, you must get prior approval.

The ~~awarding~~ agency must ensure the award's purpose and scope remain the same and the transfer aligns with federal appropriations laws and the statute or authority for the underlying award.

HHS allows transfer to a new recipient organization if:

- The award to be transferred has been terminated per ~~452 CFR § 75.372~~200.340.
- There is a successor in interest or name change. Please contact your GMS for more information about the difference between these two.
- The ~~awarding~~ agency holds back a non-competing continuation award for reasons other than the project's performance. This can relate to the recipient's award management or not meeting terms and conditions.
- The original recipient agrees to give up the award before the period of performance ends. This can happen if a PI moves to a different organization. The project, with the same PI, can continue up to the current period of performance but not beyond. Costs cannot exceed the approved direct and applicable indirect costs.

Send your request as soon as possible before the end of the approved budget period within the period of performance.

If you want a change in organization, you must get prior approval from the GMS and sometimes, the Office of General Counsel. Contact the GMS if you believe the award needs to go to a new organization, ideally a few months ahead. Early requests enable important discussions, smooth review of the request, and avoid delays.

#### **3.1.6.1.1: Supporting Documentation Needed for Requests**

From the original organization:

- The [PHS 3734](#), “Official Statement Relinquishing Interests and Rights in a Public Health Service Research Grant,” or an equivalent form from the ~~awarding~~ agency.
- For research awards, include a “Final Invention Statement and Certification.”
- A final Federal Financial Report within 120 days after the end of HHS support.

From the proposed new organization, the ~~awarding~~ agency will request an application and will provide instructions for completing the application.

**3.1.6.1.2: Requirements for Review and Possible Approval**

Transfer requests are only considered when:

- All benefits of the original award, including equipment purchased fully or partly with award funds, are transferrable~~;~~<sub>;</sub>
- The ~~awarding~~ agency decides there is a continued need~~;~~<sub>;</sub>
- There is no change in the project's scope. If there is, it may need a merit review and possibly a different procedure~~;~~<sub>;</sub>
- The facilities and resources at the new organization will allow for successful performance~~;~~  
~~and,~~<sub>;</sub>
- For transfers to or between foreign or international organizations, any special approval requirements are met. This might include approval by an advisory council or board.

Even if the requirements above are met, the HHS agency may reject the request or terminate the award.

To implement a recipient change, the HHS agency:

- Sends a revised NoA to the original recipient, updating the budget and end dates~~;~~<sub>;</sub>
- Removes any support for future years~~;~~<sub>;</sub>
- Deobligates any remaining funds, based on the expenses from the relinquishing statement~~;~~  
~~and,~~<sub>;</sub>
- Issues ~~an~~<sub>;</sub> NoA to the new recipient, reflecting the balance from the relinquishing statement.

**3.1.6.2: Change in Scope**

The PI/PD may want to make changes in the methodology, approach, or other aspects of the project that ~~do not~~ change the scope. The GMS must give prior approval for a proposed change in scope.

A change in scope occurs when the recipient proposes to change the objectives, aims, or purposes identified in the approved application. This might include:

- Shifting the research emphasis from one disease area to another<sup>7, 8</sup>
- Changing the service area<sup>7, 8</sup>
- Eliminating a primary care delivery site<sup>7, 8</sup>
- Making budget changes that cause a project to change substantially.

The HHS agency makes the determination of whether a proposed change is a change in scope.

**3.1.6.3: Change in Status of Key Personnel**

Key personnel include the PI or PD<sup>4</sup> and any other key personnel named in the NoA.

Provide written request to the GMS if any key personnel:

- Withdraw from the project entirely<sup>7, 8</sup>

- Are absent from the project for a period of three months or more; ~~or,~~
- Reduce time devoted to the project by 25 percent or more from the approved level.

The ~~awarding~~ agency must approve replacement of key personnel, or any alternate arrangement proposed.

A request for approval to substitute key personnel includes:

- A justification for the change
- The proposed person's biography
- Other sources of support, if applicable
- Any budget changes resulting from the proposed change

If your proposed arrangements are not acceptable to the ~~awarding~~ agency, they may suspend or terminate the award. If unable to make suitable arrangements, you may relinquish the award. To do so, notify the GMS in writing. The GMS will forward closeout instructions.

#### **3.1.6.4: Change in Organizational Status**

You must inform the ~~awarding~~ agency ahead of time about specific changes in your organizational status to ensure a smooth transition and maintain compliance with administrative requirements.

The following are the situations that require prior notification:

- Successor-in-interest: This happens when the obligations and rights of an award are acquired as a part of the transfer of assets. Common causes include legislation or legal actions such as mergers or shifts in corporate structure.
- Name change: This occurs when an organization changes its name, but it doesn't affect the rights or obligations of the award recipient.

- Merger: This is when two or more entities legally unite. Handling of this scenario depends on its nature:
  - If the merger results in the transfer of awards, use the policies for a successor-in-interest.
  - If the merger doesn't involve award transfers, it's treated as a name change.

If the change would be considered a change of recipient organization as discussed above, then you must obtain prior approval.

For any change in organizational status, ask your GMS. This agency is usually the one that has granted you the most awards. The GMS can clarify whether the change will be treated as a name change or a successor-in-interest and guide you on the necessary steps to follow.

### **3.2: Financial Management**

You must meet the standards and requirements for financial management systems in [452 CFR § 75.302](#) ~~200.302~~. You must have adequate internal controls and a way to manage your award consistent with Department of the Treasury requirements. See the Payment section of GPS.

Financial management systems must:

- Provide accurate, current, and complete financial information about federal awards.
- Provide reasonable procedures to ensure that subaward recipients submit timely financial reports.
- Maintain records that:
  - Identify the sources of funds for award-assisted activities.
  - Identify the award's purposes and uses, including authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and any program income.
  - Include accounting records supported by source documentation, such as canceled checks, paid bills, payrolls, and time and attendance records.
  - Maintain effective control and accountability for all cash, property, and other assets under the award; adequately safeguard them; and ensure that they are used only for authorized purposes.
  - Compare actual expenditures with the approved budget amounts for the award.
  - Include written procedures to implement the requirements of 452 CFR § 75.305 200.205 and 2 CFR 300.305.
  - Include written procedures for determining the allowability of costs in accordance with 452 CFR part 75, subpart 200 Subpart E.

Deficiencies in your financial management system may result in specific award conditions or increased monitoring.

States must expend and account for funds according to state laws and procedures for the state's own funds and ensure compliance with all the requirements above.

### **3.2.1: Payment**

You accept an award and its terms and conditions by drawing down or requesting award funds from the designated HHS payment system or office.

HHS generally makes award payments through the Payment Management System (PMS). HHS grant payments are generally advance payments. You should draw down funds as often as needed.

In accordance with Department of Treasury regulations, you must draw federal cash only for your immediate needs. At time of draw down, you will certify you will not hold cash beyond three working days. You are responsible for knowing when funds are deposited into your bank account so that you can disburse them on time. You may end up with excess Federal cash on hand if you do not disburse or return funds on time. Do not request cash to cover unliquidated encumbrances, obligations, or accrued expenditures until payment is pending.

Refer to the [Payment Management System \(PMS\) website](#) and [PMS User Guide | HHS PSC FMP Payment Management System](#) for further guidance.



### **3.2.2: Types of Payment**

As noted, HHS grant payments are generally advance payments. There are multiple ways to receive payments, including SMARTLINK II/ACH, CASHLINE/ACH, and cash request.

- SMARTLINK II/ACH: directly deposits funds to your bank account after you request them from PMS. You must have Internet access to submit a request for funds to PMS. This method makes funds available the day after the request using the Federal Reserve Bank's Automated Clearinghouse process.
- CASHLINE/ACH: directly deposits funds to your bank account using a telephone to call a "voice-response" computer at PMS. Makes funds available the day after the request with direct deposit using the Federal Reserve Bank's Automated Clearinghouse process.
- Cash request: provides payment if you are not eligible for unrestricted advance of funds. It will say in the NoA if you must use cash requests for payment. Cash requests may be an advance or reimbursement.

You may request funds monthly for advance payments. This request should be based on expected disbursements for following month and the amount of Federal funds already on hand.

A request for reimbursement may be submitted more often than monthly. You should submit requests to the ~~awarding~~ agency at least 2 weeks before the cash is needed. PMS makes payment electronically through the ACH process upon receipt of the approved payment request from the agency.

Refer to the [Payment Management System \(PMS\) website](#) and [PMS User Guide | HHS PSC FMP Payment Management System](#) for further guidance.

### **3.2.3: Interest Earned on Advances of Award Funds**

You must keep advance payments in interest-bearing accounts, except as provided in [452 CFR § 75.305 200.305\(b\)\(811\)](#). You can keep interest earned up to \$500 per year for administrative expenses. Each year, you must remit any interest earned over \$500 per year to the Payment Management System.

### **3.2.4: Indirect Costs**

#### **3.2.4.1: Indirect Cost Rate Negotiation and Salary Rate Limit (SRL) Policy**

Please see [Indirect Cost Rate Negotiation](#) and [SRL Policy in the Application Section](#).

#### **3.2.4.2: New or Amended Indirect Costs**

The GMO may permit new or increased indirect costs on an award [in alignment with the recipient's negotiated indirect cost rate agreement](#) when:

- A timely cost proposal was not received.
  - This can happen only if funds are available.
  - The amount is limited to the period after the effective date of the rate agreement.
- Rebudgeting changes a direct cost, which impacts an indirect cost.

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- The recipient may adjust the budget within the award ceiling and generally does not need prior approval. See ~~the~~ Prior Approvals section of the GPS.
- The indirect cost rate changes.
  - Generally, award amounts will not be adjusted based on a negotiated indirect cost ~~rate~~ different from that used at award.
  - However, if funds are available, a GMO may provide additional funds for indirect costs, only if:
    - An error was made in computing the award. This includes when a higher rate is negotiated after award and the date of the new rate agreement is within a month prior to the budget period start.
    - The ~~awarding~~ agency restores funds previously recaptured as part of an unobligated balance.
    - The recipient is eligible for additional indirect costs associated with additional direct costs awarded, such as a supplemental award.
    - A provisional rate was approved, and an approved indirect cost rate is now in effect.
  - The permanent rate will be used to determine indirect cost reimbursement, however:

- If the permanent rate is lower than the provisional rate, the award will not be adjusted downward, unless the indirect cost proposal included unallowable costs.
- The ~~awarding~~ agency is not required to provide new funds to accommodate a higher rate.

### **3.2.5: Applicable Credits**

Applicable credits are funds saved or received that can reduce costs. Common examples include:

- Discounts
- Rebates
- Refunds for losses
- Corrections for overcharges

If you have any of these credits, you need to update the Federal Financial Report (FFR) to ensure that the proper amounts are charged to the award. If there are any extra steps, the ~~awarding~~ agency will let you know.

See ~~452~~ CFR § 75.406 200.406.

### **3.2.6: Allowable Costs and Activities**

Allowable costs are either a direct cost or an indirect cost, and:

- Meet the applicable cost principles, including all the following:

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- Meet the factors affecting allowability. See ~~452 CFR § 75.403~~ 200.403;
- Are reasonable. See ~~452 CFR § 75.404~~ 200.404;
- Are allocable. See ~~452 CFR § 75.405~~ 200.405; and
  - Are allowable under the NOFO, program requirements, and NoA, including specific conditions and overall terms and conditions.
- Are specifically approved in the award, which means either:
  - The cost was included in the original award ~~;~~ or
  - The cost is later approved by the ~~awarding~~ agency. See the Prior Approvals section of GPS.

Contact the GMS before incurring a cost if you have questions about allowability.

Subrecipients and contractors under the award must follow the requirements of their applicable cost principles.

### **3.2.6.1: Costs that Require Prior Approval**

If you specifically describe a cost or activity that requires prior approval in your application budget, that cost is approved by the agency when you receive your award unless otherwise stated in the NoA. You do not need to get additional prior approval for that cost or activity.

You must get prior approval from the agency if you do not describe the cost or activity that requires prior approval in your application.

### **3.2.6.2: Profits and Fees**

HHS will not provide profits or fees, except for the Small Innovation in Research (SBIR) and the Small Business Technology Transfer (STTR) Programs.

You can't pay fees to subrecipients or consortium members, even if they are for-profit.

Contractors can make a profit for common goods or services in accordance with normal commercial practice. See [452 CFR ~~§ 75.351~~ 200.331](#).

### **3.2.7: Expenditure Adjustments**

Expenditure adjustments are used to correct accounting or bookkeeping errors. These adjustments move costs between two budget categories, with at least one related to the HHS award. Once the error is found, it must be corrected within 90 days. If after 90 days, you must ask the GMO for approval.

Don't use expenditure adjustments to cover cost overruns or for unallowable costs.

#### **3.2.7.1: Documentation**

The adjustment must be supported by documentation that fully explains how the error occurred. Documentation must:

- Explain how the error happened and have an official from your organization certify the correction.

- Show how the adjustment meets the cost principles of allowability, allocability, and reasonableness.
- Support why the adjustment is needed, considering the type of cost, the original charge, and when it was first recorded.

Unless the expenditure adjustment needs GMO approval, you don't need to send the documentation to the GMS. Keep records for monitoring or audits. See [452 CFR § 75.364-200.337](#).

Send a revised Federal Financial Report (FFR) if the adjustment changes your previous FFR.

Your financial system should catch errors quickly. Regular mistakes suggest you need to improve your accounting or internal controls. Agencies might ask for corrective actions or add terms and conditions to your award.

### **3.2.8: Rate of Expenditure and Drawdowns**

Expenditure and drawdown rates give information about progress, financial management, and internal controls.

#### **3.2.8.1: Expenditures**

The GMS monitors spending rates within each budget period and throughout the period of performance.

The funds for each budget period are based on:

- the work planned for that time
- your budget, including any unobligated funds

HHS expects spending rates and types to match the approved plan and budget.

#### **3.2.8.2: Drawdowns**

The GMS checks drawdown patterns to see if money is taken out too early or too slowly. This can show:

- problems with your financial management system or internal controls
- risk of not finishing the project on time and within budget

If issues are found, the GMS will ask for more details and help you make corrections, which may include coordinating with the agency PO and GMS.

#### **3.2.9: Cost Allocation**

If a cost benefits more than one project or activity, divide the cost based on the benefit to each project.

If it is hard to determine the split because the projects are closely linked, distribute the costs on a reasonable basis with clear and documented explanations.



### **3.2.10: Treatment of Unobligated Balances**

Unobligated balances are funds under an HHS award that you have not obligated. You calculate this by subtracting the cumulative amount of funds obligated from the cumulative amount of funds authorized.

Unliquidated obligations are commitments you have made, but not yet paid. Unliquidated obligations should not be reported as part of an unobligated balance.

If you have unobligated balances in your annual FFR, the ~~awarding~~ agency can:

- Carry Over: Revise the NoA to carry over to a following budget period.
- Offset: Move them to the next budget period but deduct the total from the award amount.
- A Mix: Use a mix of carry over and offset.

During an active budget period, if you have unobligated balances from a previous budget period, you can ask the ~~awarding~~ agency in writing to use them. If approved, the ~~awarding~~ agency will amend the NoA. If approved, funds carried over can be used for costs within scope of the project.

### **3.2.11: Program Income**

Program income is gross income earned by an award recipient, subrecipient, or contractor and directly generated by an award-supported activity or earned ~~as a result~~because of the award.

Program income includes:

- fees for services
- charges for the use or rental of real property, equipment, or supplies bought with the award
- the sale of products made under an award
- charges for research resources
- license fees and royalties on patents and copyrights

The NoA governs the use of royalties and other income earned from a copyrighted work, patents, patent applications, trademarks, or inventions.

#### **3.2.11.1: Accountability**

Accountability refers to whether the ~~awarding~~ agency specifies how the program income is to be used, if the income needs to be reported to the ~~awarding~~ agency, and for what length of time. The following general policies apply:

- Unless otherwise specified in the award terms and conditions, you are not accountable for program income earned after the period of performance ends.
- Program income must be used for the original purpose of the Federal award and may be used only for allowable costs using the applicable cost principles and award terms and conditions.
- Subawards and contracts are subject to the same terms regarding generated income as the

recipient. The following policies apply related to when the program income is earned:

- Received and expended during the period of performance. Recipient is required to use program income as provided in the NoA.
- Received and expended after the period of performance. Required to adjust the final FFR to reflect receipt and use of the income as directed by the GMO.
- Received during the project period but expended after the period of performance. This may happen if you earn the income during the final budget period of the period of performance, please get GMO approval to use income post final budget period and adjust the final FFR accordingly.

### **3.2.11.2: Alternatives for Use**

The NoA will tell you how to use program income. Here are the alternatives:

- Additive: Add it to the project's funds to further allowable objectives. Program income must be used for the purposes and under the conditions of the award.
- Deductive: Deduct it from the project's total costs and reduce federal funds and recipient cost-sharing contributions.
- Combination: Uses the additive alternative for program income up to \$25,000 and the deductive alternative for any amount over \$25,000.

- **Matching Cost sharing:** Use it as all or part of the non-federal (matching) part of an award. [See 2 CFR 45.307-200.307\(eb\)](#) for more information.

Generally:

- For non-research projects: If not specified in the NoA, use the deductive method.
- For research projects (except for awards to for-profit organizations other than the SBIR and STTR programs): If it is not specified, use the additive method.

### **3.2.11.3: Reporting of Program Income**

Recipients must report the amount of net program income earned and expended on the FFR. This is the gross program income earned minus the costs associated with generating the income.

- Report program income using the additive alternative on line 10n, which will populate line 10o.
- Report program income using the deductive alternative on line 10m, which will populate line 10o.
- Report program income used to satisfy match on line 10j. Do not include it on line 10l.

Reporting requirements [are in the NoA](#) for accountable income earned after award support ends ~~are in the NoA~~.

### **3.2.12: Cost Sharing**

Cost sharing ~~—~~ or matching ~~—~~ is the portion of project costs not paid by federal funds, unless otherwise

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authorized by federal statute. This may include:

- The value of allowable third-party in-kind contributions.
  - Non-award funded expenditures made by the recipient.

See 452 CFR ~~§ 75.306~~ 200.306 for rules on cost sharing or matching.

The following policies apply:

- Cost sharing may be voluntary or required by the NoA.
- Required cost sharing is part of the total approved budget in the NoA. It is part of the award requirements and enforceable.
- Cost sharing must follow the same requirements as the federal portion of the budget. This includes applicable cost principles, prior approval requirements, and other rules for allowability.
- Recipients may apply program income toward cash match only when expressly permitted by the NoA with prior approval.
- All cost sharing contributions must be from allowable sources. See 452 CFR ~~§ 75.403~~ 200.403, 452 CFR ~~§ 75.404~~ 200.404 and 452 CFR ~~§ 75.405~~ 200.405.

- For research awards:
  - Voluntary cost sharing is not expected under research proposals.
  - Voluntary cost sharing cannot be used as a factor during merit review of research applications unless explicitly described in the NOFO review criteria.
  - Only mandatory cost sharing or cost sharing committed in the budget must be included in your research base for computing your indirect cost rate or reflected in allocating indirect costs.

The ~~awarding~~ agency will accept shared costs ~~or matching funds~~, including cash and third-party in-kind contributions, when they meet all the following:

- follow ~~452 CFR § 75.306~~200.306(e) for volunteer services
- are verified from the recipient records
- are necessary and reasonable to accomplish project objectives
- are provided for in the approved budget when required
- are not paid by the federal government under another federal award, unless specifically allowed by law. See ~~452 CFR § 75.306~~200.306(b)(5).

The following policies apply:

- Sources of cost sharing or matching contributions must follow the applicable cost principles. See ~~452 CFR part 75, subpart~~200 Subpart E.
- If an ~~awarding~~ agency authorizes the recipient to donate buildings or land for construction or facility

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acquisition or long-term use, the value of the donated property for cost sharing ~~or matching~~ is generally the lesser of:

- the value of the remaining life of the property recorded in the recipient's accounting records at the time of donation
- the current fair market value

See ~~452~~ CFR ~~§ 75.306~~ 200.306(d).

- You must document in your records all costs and contributions used to satisfy a ~~matching or~~ cost-sharing requirement. These are subject to audit.
- You may use unrecovered indirect costs to satisfy cost sharing requirements with prior approval. These are the difference between the amount charged to the award and the amount that could have been charged to the award under the recipient's approved negotiated indirect cost rate.
- A third-party in-kind contribution to a fixed-price contract may count towards satisfying a cost sharing ~~or matching~~ requirement only if either:
  - it is an increase in the services or property provided under the contract without added cost to the recipient or subrecipient, or
  - it is a cost savings to the recipient or subrecipient.

If the NOFO specifies that ~~matching or~~ cost sharing is required, it will also say:

- Whether including ~~matching or~~ cost sharing in the application is an eligibility requirement or an evaluation criterion.
- The nature of the requirement. For example, whether it is a fixed percentage.
- Required documentation, like letters of commitment.

### **3.2.12.1: Valuation of Volunteer Services**

Anyone offering skilled or manual work can volunteer for award-related activities. See [452](#)  
[CFR § 75.306200.306\(e\)-\(f\)](#).

To value the services:

- For individuals:
  - Use the usual rates your organization pays or area market rates for similar work.
  - If you do not have a set rate, use the typical local rate for that work.
  - You can also add a fair amount for fringe benefits.
- For employees lent by other companies:
  - Use their regular rate if they are doing their typical job.
  - Use the method for individuals if they are doing something different.



### **3.2.12.2: Valuation of Donated Buildings and Land**

If an ~~awarding~~ agency authorizes you to donate buildings or land for construction or facilities acquisition projects or long-term use, the value of the donated property for cost sharing must be the lesser of the following:

- the value of the remaining life of the property
  - the current fair market value

See 452 CFR ~~§ 75.306~~200.306(d), (h), and (i).

### **3.2.12.3: Enforcement**

If you do not meet the specified level of cost sharing in the NoA, an ~~awarding~~ agency may do any or all ~~of~~ the following:

- reduce the award amount
- adjust down award funds during the budget period
- disallow costs post award

### **3.3: Procurement Management**

You may acquire goods or services in support of award activities. The following policies apply when procuring property and services under an award:

- States must follow the same policies and procedures it uses for non-federal funds. Follow the requirements at ~~452 CFR § 75.326~~200.317.
- All other recipients and subrecipients of a state must follow the procurement standards in ~~452 CFR §§ 75.327~~200.318 through ~~75.335~~2 CFR 200.327.

~~In order to~~To procure goods and services, you must:

- Have written procurement procedures and standards of conduct that reflect applicable state, local, and tribal laws and regulations~~;~~
- Use a procurement method
- Do a cost or price analysis for all procurements above the simplified acquisition threshold
- Choose responsible contractors
- Follow all requirements in this section of the GPS

The HHS ~~awarding~~ agency has no direct relationship with your contractor.

Recipients other than federal institutions cannot use General Service Administration (GSA) supply sources except states who may acquire hardware and software from the GSA supply sources consistent with the terms and conditions of the GSA schedule.

#### **3.3.1: Fixed Amount Subawards**

With prior written approval from the GMO, you may provide subawards based on fixed amounts up to

\$500,000 (~~2 CFR § 200.333~~). Fixed amount subawards must meet the requirements for fixed amount awards in ~~452 CFR § 75.201~~200.201.

### **3.3.2: Requirements for States**

States may follow the same policies and procedures for procurements using non-federal funds. States will comply with ~~452 CFR § 75.334~~200.323 and ensure that every purchase order or other contract includes any clauses required by ~~452 CFR § 75.335~~200.327.

States may acquire hardware and software from GSA Federal Supply Schedules consistent with the terms and conditions of the schedules.

State agencies or agencies that are political subdivisions of states must comply with section 6002 of the Solid Waste Disposal Act as amended by the Resource and Conservation Act. The requirements include:

- Procuring only items noted in guidelines of the Environmental Protection Agency (EPA) at [40 CFR § 247](#) that contain the highest practical percentage of recovered materials.
- Keeping an acceptable level of competition, where the purchase price of the item is more than \$10,000 or the value of the amount acquired during the previous fiscal year was more than \$10,000.
- Procuring solid waste management services to maximize energy and resource recovery.
- Establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **3.3.3: Requirements for Foreign Entities**

The HHS ~~awarding~~ agency may require a review of all proposed procurements exceeding a certain dollar amount or for certain types of services. The HHS ~~awarding~~ agency may also add specific terms and conditions to its awards that address the procurement of such goods and services.

### **3.3.4: Selecting Responsible Contractors**

You must avoid acquiring duplicate or unnecessary services or goods. You should use the most efficient strategy for acquisition. You should use federal excess and surplus property whenever possible to reduce project costs. You must award contracts based on factors like:

- Integrity
- Compliance with public policy
- Past performance
- Financial and technical resources

### **3.3.5: System for Award Management (SAM) Eligibility**

You must check the System for Award Management ([SAM.gov](#)) to make sure ~~that~~ you do not make a

subaward or contract to a debarred, suspended, or ineligible organization. SAM needs to be checked:

- By the recipient organization:
  - for all first tier subawards, regardless of the amount
  - for all first-tier procurement contracts of \$25,000 or more
  - for all lower tiers of contracts under covered non-procurement transactions. See [2 CFR ~~§~~376.220](#).
- By the subaward recipient for all lower tier subaward recipients.

### **3.3.6: Written Agreements**

You must execute a written agreement between your organization and the subrecipient, if applicable. The agreement must not affect your overall responsibility for the project or accountability to the federal government.

The agreement must include all the following:

- the activities to be performed

- time schedule
- the provisions required by ~~452 CFR § 75.335~~200.327 and those found in ~~452 CFR part 75~~200, Appendix II;
- policies and requirements that apply to the contractor, including ~~452 CFR § 75.327~~200.318 and other relevant award terms and conditions
- maximum amount of funds to be awarded
- cost principles to be used in determining allowable costs for cost-type contracts

The following policy applies:

- ~~The agreement must not affect your overall responsibility for the project or accountability to the federal government.~~

### **3.3.7: Subrecipient Periods of Performance - Contracts**

If the term of the contract and the award budget period are not the same, you may charge the contract costs to the budget period in which the contract is executed even though some of the services will be performed in a later period. These conditions apply:

- You must notify the ~~awarding~~ agency.
- The expected contract performance period ~~goes~~must go beyond the current grant budget period.
- You have a legal commitment to settle all contractual and administrative issues. See ~~452 CFR § 75.327~~200.318(k).
- Only costs for services provided during the period of performance are allowable.
- For rental costs for facilities and equipment, charge the applicable amount in each budget period ~~as applicable~~. Contact the GMS before entering ~~into~~ leases that will result in direct charges to the award.

All contracts more than the simplified acquisition threshold must include termination provisions in line with 2 CFR 74.48 and 45 CFR 92.36(i)(2). While not required for awards under the

~~To limit liability~~simplified acquisition threshold, recipients should insert a clause ~~in~~  
~~contracts less than \$100,000 that states that~~stating payment after the end of the current  
budget period is contingent on continued federal funding.

### **3.3.7.1: Time and Materials Contracts**

Time and materials contracts may only be used if:

- there is no other appropriate contract type
- the contract includes a ceiling price that the contractor exceeds at its own risk
- the direct hours are fixed and include wages, general and administrative expenses, and profit

### **3.3.8: Procurement Methods**

You must use one of the following methods of procurement:

- Micro-purchases
- Small purchase procedures
- Sealed bids
- Competitive proposal

- Noncompetitive proposal

Micro-purchase procurements are the acquisition of supplies or services when the total dollar amount is less than the micro-purchase threshold ~~(\$50,000)~~. Generally, the micro-purchase threshold is \$10,000, but recipients may self-certify a higher threshold, up to \$50,000. If you self-certify a higher micro-purchase thresholds, you have to follow documentation requirements in 2 CFR 200.320(a)(1)(iv).

To the extent possible, you must distribute ~~micro-purchases~~ micro-purchases equitably among qualified suppliers. Micro-purchases do not require soliciting competitive quotations if cost is reasonable.

Small purchase procurements involve simple procurement methods for securing services, supplies, or other property less than the Simplified Acquisition Threshold (\$250,000). Non-federal entities must obtain price or rate quotes from sufficient qualified sources.

Sealed bid procurements require public solicitation for bids, leading to a firm fixed price contract (lump sum or unit price) given to the bidder whose bid is the lowest in price and complies with all material terms and conditions.

Competitive proposals usually involve more than one source sending an offer. A fixed price or cost-reimbursement type contract is awarded. It is generally used when sealed bids are not appropriate. You must adhere to the following requirements when using this procurement method:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources.



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- You must have a written method for technical evaluations of the proposals and for selecting bids.
- Contracts must be awarded to the responsible firm whose proposal is best for the program.

You can also use the competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services. Applicant qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

Non-competitive proposals solicit a proposal from a single source. You may only use this method when the item is only available from a single source or in the event of a public emergency to expedite the acquisition, or when there is inadequate competition for a product, material, or service. You can get approval for non-competitive proposals from the GMO or his/her delegate.

Upon request, you are required to undergo a pre-procurement review and submit procurement documents to the HHS ~~awarding~~ agency or pass-through entity when:

- Your procurement procedures or operations do not comply with the procurement standards required by those regulations.
- The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition, or only one bid or proposal is received in response to a solicitation.
- A procurement that will exceed the Simplified Acquisition Threshold specifies a “brand name” product.

- A proposed award over the Simplified Acquisition Threshold is to be awarded to other than the apparent low bidder under a sealed-bid procurement.
  - A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount considered to be a simplified acquisition.
- When prior written approval is required, the non-federal entity must make available sufficient information to enable review. This may include, at discretion, ~~pre-solicitation~~pre-solicitation technical specifications or documents, such as requests for proposals or invitations for bids, or independent cost estimates. Approval may be deferred pending submission of additional information by the non-federal entity or may be conditioned on the receipt of additional information. Any resulting approval does not constitute a legal endorsement of the business arrangement by the federal government nor does such approval establish the HHS ~~awarding~~ agency as a party to the contract or any of its provisions.

### **3.3.9: Written Standards of Conduct and Conflict of Interest**

Recipients must maintain written standards of conduct covering conflicts of interest. Individuals affiliated with a recipient organization cannot participate in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest with:

- Employees

- Officers
- Agents
- [Board members](#)
- Immediate family members, spouses, or partners
- Potential employer

These individuals are prohibited from soliciting gratuities, favors, or anything of monetary value from subrecipients. However, recipients may set standards for situations where financial interest is not [substantial or the gift is an unsolicited item of insignificant value. These standards of conduct must be applied for violations of the standards by officers, employees, board members, or agents of the organization.](#)

[Recipients that are part of a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian Tribe are required to have an organizational conflict of interest policy.](#)

### **3.4: Management of Property and Equipment**

[Real property can only be acquired when authorized by statute and when specifically stated in the NoA.](#)

[Generally, recipients may use their own property management policies and procedures for property purchased or constructed as a direct cost using HHS financial assistance funds, provided they comply with the requirements in 2 CFR 200 Subpart D - Property Standards. The recipient is responsible for the day-to-day management of real property, equipment and supplies acquired or used under an award, whether the title belongs to the recipient or remains with HHS. Recipients must maintain written policies and procedures that address contracting, purchase, and management of all equipment and supplies.](#)

[Recipients \(and subrecipients, as applicable\) must be wise when purchasing property under an award. It is the recipient's responsibility to carefully review each potential property purchase to ensure that it is needed and that the need cannot be met with property already owned by the recipient. If the NoA says the recipient must get permission before buying property, the recipient must make sure they get permission. The recipient must also follow procurement procedures in acquiring property as specified in 2 CFR 200 Subpart D - Property Standards.](#)

[As mentioned in the prior procurement section, recipients other than federal institutions cannot use General Service Administration \(GSA\) supply sources except states who may acquire hardware and software from the GSA supply sources consistent with the terms and conditions of the GSA schedule.](#)

#### **3.4.1: Exempt Property**

[Exempt property means property bought with award funds where the HHS agency has chosen to give the title to the property to the recipient without further obligation, based upon the explicit terms and conditions of the federal award. The HHS agency may exercise this option when statutory authority](#)

exists.

Under a research award to a nonprofit institution of higher education or to a nonprofit organization whose main purpose is conducting scientific research, the HHS agency must use the special authority provided in the Federal Award and Cooperative Agreement Act (31 U.S.C. 6306) to give the title to equipment and supplies to the recipient (except for those obligations in 2 CFR 200.313).

### **3.4.2: Nonexempt Property**

As implemented in 2 CFR 200.312, the title to federally owned property belongs to the federal government. Each year, the recipient must submit an inventory listing of federally owned property in its custody to the HHS agency (SF-428-A). Upon completion of the federal award or when the property is no longer needed, the non-federal entity must report the property to the HHS awarding agency for utilization using the SF-428-B (final) or SF-428-C (disposition). The recipient will receive disposal instructions from the HHS awarding agency.

#### **3.4.2.1: Revocable License**

In some cases, federally owned property may be made available to a recipient under what is called a “revocable license agreement.” This agreement means the HHS awarding agency allows the recipient to use the property for the period of the award under the following conditions:

- The title to the property ~~remains~~ belongs to the federal government;
- The HHS awarding agency reserves the right to require the property ~~to~~ be returned to ~~the HHS~~ should it be determined to be in the best interests of the federal government to do so;
- The use to which the non-federal entity puts the property does not permanently damage it for federal government use; ~~and,~~
- The property is controlled and maintained in accordance with the requirements of the NoA.

### **3.4.3: Equipment**

Equipment is tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit purchase cost which equals or exceeds the lesser of the capitalization level established by the recipient for financial statement purposes, or \$10,000. See also the definitions of capital assets, computing devices, general purpose equipment, information technology systems, special purpose equipment, and supplies in 2 CFR 200.1.

Please see the general requirements under ~~452 CFR § 75.320~~ 200.313 and ~~452 CFR § 75.439~~ 200.439 for how to manage and track equipment. Unless a statute specifically says the recipient should own the title for equipment without further obligation to the HHS awarding agency, the title must be a conditional title. Under this conditional title, the recipient must:

- Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project; ~~and,~~

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- Put a control system in place to prevent loss, theft, and damage.
- Not restrict the use of the equipment without approval of the HHS ~~awarding~~ agency.
- Subject to disposition instructions provided by the HHS ~~awarding~~ agency, use the equipment in the project it was acquired in as long as needed, whether ~~or not~~ the project continues to be supported by the federal award.

#### **3.4.4: Important Property Reminders**

- You must classify equipment that will be permanently attached or fixed to the land as real property.
- States must use, manage, and dispose of equipment acquired under a federal award by the state in accordance with state laws and procedures.
- Real property constructed or renovated with award support may not be conveyed, transferred, assigned, mortgaged, leased, or in any other manner encumbered by the recipient, except as expressly authorized in writing by the ~~awarding~~ agency.

- If you default on a mortgage, you must immediately notify the GMS by telephone and in writing. If the mortgage holder intends to foreclose, you must notify the GMS in writing at least 30 days before the foreclosure action is initiated.
- The mortgage agreement must specifically allow, in the case of default, that HHS or its designee may assume the role of mortgagor (borrower) and continue to make payments.

### **3.4.5: Insurance**

You must insure property and equipment acquired or improved under an award. The following policies apply:

- You must provide the same insurance coverage for property under an award as you do for other such property.
- You don't need to insure federally owned property unless required by the award terms and conditions.
- If your organization is a government agency, you may follow your own insurance requirements.
- If title to real property bought with award funds vests with your organization, you must provide the following minimum insurance coverage:
  - Title insurance policy covering the fee interest in the real property for an amount not less than the full appraised value of the property, even if federal support is partial.
  - Physical destruction insurance policy covering the full appraised value of the facility from risk of partial and total physical destruction, even if federal support is partial.
  - You must maintain the insurance policy for the duration of the federal interest in the property.

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Within five days of completion or beneficial occupancy, you must submit a written statement signed by the AOR to the GMS. This statement must assure that you have purchased the required insurance policies and will maintain the insurance coverage as required above.

#### **3.4.5.1: Self-Insurance**

The ~~awarding~~ agency may waive ~~one or both of~~ the requirements above if you are effectively ~~self-insured~~ self-insured. If you claim self-insurance, you must provide the ~~awarding~~ agency an assurance that includes:

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- A statement that you meet the definition of effectively self-insured. This means that you have sufficient funds to pay for any damage to the facility, including total replacement, or to satisfy any liens placed against the facility.
- The source of the funds, such as the organization's endowment or other special funds set aside for this purpose.

See [452 CFR ~~§ 75.447~~ 200.447](#).

### **3.4.6: Notice of Federal Interest for Construction, and Acquisition, ~~and or~~ Modernization of Real Property**

A Notice of Federal Interest (NFI) is required for construction, and acquisition, ~~and or~~ modernization of real property, except for Minor alterations and renovations (A&R). The non-federal entity (or owner, if other than the non-federal entity) must file an NFI prior to initiating construction or modernization, or when an existing facility or land is acquired with federal funds. The non-federal entity must:

- Record the NFI by the owner in the appropriate public records of the jurisdiction where the property is located. Associated fees are allowable costs.
- Provide a copy of the NFI to the HHS ~~awarding~~ agency.
- Accurately indicate that the property was constructed, acquired, or modernized with HHS ~~awarding~~ agency funds and, that during its useful life of the facility, as defined in the NFI, the HHS ~~awarding~~ agency's use and disposition requirements apply.
- Seek review by the HHS ~~awarding~~ agency to make sure it is acceptable.

The federal interest may not be conveyed, transferred, assigned, mortgaged, leased, or otherwise be encumbered or subordinated by a non-federal entity unless approved by the HHS ~~awarding~~ agency.

### **3.4.7: Property and Equipment Disposition**

According to [452 CFR ~~§ 75.318\(c\)~~ 200.311\(d\)](#) and [2 CFR 200.313\(d\)](#), you must request disposition instructions from the ~~awarding~~ agency when:



- Property under the award is no longer needed for the intended purpose or you will not be using the property for other activities currently or previously supported by an ~~awarding~~ agency.
- Federal statutes, regulations, or ~~awarding~~ agency disposition instructions in the NoA do not say otherwise.

**3.4.7.1: Equipment**

Unless the NoA or HHS ~~awarding~~-agency instructions say otherwise, you must dispose of the property as follows, in accordance with ~~awarding~~-agency disposition instructions:

- Retain, sell, or dispose of equipment items with a current fair market value of
  - \$10,000 or less, with no further responsibility to the government. See 2 CFR § 200.313(e)(1). The provision also clarifies that Indian Tribes may use their own procedures for use, management, and disposal of equipment. If they do not have procedures, then they must follow the ordinary guidance.
- Retain or sell equipment items with a current fair market value over \$10,000. The following apply:
  - You pay the ~~awarding~~-agency the current fair market value according to the percentage of the federal share in its original cost.

- If sold, the ~~awarding~~ agency may allow you to deduct the lesser of \$~~500~~1,000 or ten percent of the proceeds from the federal share.
- If ~~you~~your organization is a non-profit institution of higher education or ~~non-profit~~non-profit organization with a principal purpose of scientific research, you are exempt from any requirement to account for proceeds from a sale.
- Transfer property title to the federal government or an eligible third party. You are entitled to compensation for its share of the current fair market value.

#### **3.4.7.2: Supplies**

Your organization is assigned the title to supplies when you acquire them. If you have more than \$10,000 in supplies after the award is terminated or project is completed, you must retain the supplies for use on other activities, or sell them, and then compensate the federal government for its share. See [2 CFR §200.314](#).

#### **3.4.8: Modernization of Real Property**

Modernization includes both major and minor alterations and renovations (A&R) unless otherwise stated. Modernization is not an allowable cost under the following:

- Federal awards to individuals
- Conference awards
- [Training awards](#)

You may not perform major A&R using federal funds or required ~~matching or~~ cost sharing unless:

- There is specific statutory authority, and
- The NoA explicitly allows it.

Minor A&R is an allowable cost under all [other](#) types of awards with prior approval under the following criteria, unless restricted in the NOFO or NoA:

- The governing statute or program regulations do not exclude it.
- The work is required to use the space more effectively to meet the program needs.
- The building has a useful life consistent with the project and is architecturally and structurally suitable for conversion.
  - If you own the property, it has a useful life consistent with the project.
  - If you lease the property, the terms and length of your lease are consistent with the project.
- Work and costs to get an initial occupancy permit is not an allowable cost. Costs must be for purposes other than human occupancy (e.g., storage).
- If the building is under construction or the A&R will take place in an incomplete structure, the costs are only allowable if:
  - It is cost-effective to perform the A&R while the building is under construction or being completed, and

• Minor A&R costs are limited to the difference between the cost of completing the interior space for general use and the cost of adapting it for the federal award supported purpose.

- The space involved will be occupied by the project.
- National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) requirements are followed, as applicable.

The following are not considered minor A&R:

- Costs associated with routine maintenance, painting, and repair of facilities or equipment that are normal business costs and generally charged as indirect.
- Certain costs of installing equipment, such as the temporary removal and replacement of wall sections and door frames to place equipment in its permanent location, or the costs of connecting utility lines, replacing finishes and furnishings, and installing any accessory devices required for the equipment's proper and safe utilization, unless the non-federal entity's accounting system considers these modernization costs rather than equipment costs.
- Costs of furnishings and movable equipment.

### **3.4.9: Federal Interest Involving Construction and Modernization of Leased Property**

You must make sure any leased property that you propose construction or modernization costs for has a long enough lease for the full value of the federal award supported improvements to benefit the

award activity and support the expected useful life of the facility. You must submit additional documentation to the HHS ~~awarding~~ agency in these cases:

- You must submit lease language to the HHS ~~awarding~~ agency prior to drawing down funds or being reimbursed.
- The property owner must consent to the proposed work, acknowledge federal interest in the property, and file a Notice of Federal Interest (NFI), if required. The lease must include, or be amended to include:
  - Your full use of and access to the leased property during the term of the lease.
  - Your agreement not to sublease, assign, or otherwise transfer the leased property, or use the property for a non-federal award-related purpose(s) without the written approval of the HHS ~~awarding~~ agency (at any time during the term of the lease, whether ~~or not~~ federal award support has ended).
  - That the lessor will inform the HHS ~~awarding~~ agency of any default by the non-federal entity under the lease.
  - The HHS ~~awarding~~ agency has 60 days from the date of receipt of the lessor's notice of default in which to attempt to eliminate the default, and that the lessor will delay exercising remedies until the end of the 60-day period.

- The HHS ~~awarding~~ agency intervening to ensure that the default is eliminated by the non-federal entity, or another non-federal entity named by the HHS ~~awarding~~ agency.
- The lessor accepting payment of money or performance of any other obligation by the HHS ~~awarding~~ agency's designee, for the non-federal entity, as if such payment of money or performance had been made by the ~~non-federal~~ non-federal entity.
- If the non-federal entity defaults, the federal award is terminated, or the non-federal entity vacates the leasehold before the end of the lease term, the HHS ~~awarding~~ agency has the right to designate a replacement for the non-federal entity for the balance of the lease term, subject to approval by the lessor in a separate agreement with HHS, which will not be withheld except for good reason.
- Documentation of a NFI for the leased property (if required).

### **3.4.10: Intangible Property**

Intangible property is property having no physical existence. These may include:

- trademarks, copyrights, patents, and patent applications
- property, such as loans, notes, and other debt instruments; lease agreements; stock; and other instruments of property ownership

See 2 CFR 200.315.

### **3.4.11: Intellectual Property**

HHS expects you and your PIs and PDs to make your award results and accomplishments available to the research community and the public. If the research results in inventions, the [Bayh-Dole Act of 1980](#) and [37 CFR ~~part~~ 401](#) apply. If you follow these requirements, you have the right to retain [the](#) title to any invention conceived or first actually reduced to practice.

The law and regulation promote:

- commercialization of federally funded inventions-
  - free competition and enterprise without restricting future research and discovery-

The law and regulation require recipients to:

- Make efforts to develop and commercialize the technology to advance to industry
- [for](#) development.
- Make unpatented research products or resources available through licensing to vendors or other investigators.
- Share copyright-protected research outcomes in journal articles or other publications.



**Irrevocable 3.4.11.1: Arrevocable and Royalty-Free License**

Except as otherwise provided in the NoA, you may assert copyright in any publications, data, or other copyright-protected work developed under an award. Doing so does not require ~~awarding~~ agency approval.

Rights in data also extend to students, fellows, or trainees under awards with an educational purpose. In this case, authors are free to assert copyright in works.

The federal government has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use material resulting from a supported project or program. This applies whether HHS funded all or part of the project. You are responsible for ensuring that any necessary copyrights obtained from your subrecipients also allow the material to be used by the federal government.

HHS may also extend this license to others for federal purposes. For example, to make it available in government-sponsored databases for use by other researchers. The NoA addresses the specific scope of ~~awarding~~ agency rights. See ~~452 CFR § 75.322~~200.315(d), ~~452 CFR § 75.365~~200.212.

**3.4.11.2: Access to Data and Research Data**

Access to data is addressed in 2 CFR 200.315(d).

Specifically for research data, defined at 2 CFR 200.315(e)(3), a federal agency may use award-related research data in developing an agency action that has the force and effect of law. If so, ~~452 CFR § 75.322~~ 200.315(e)(1) requires recipients to release the research data to the ~~awarding~~ agency to support a FOIA request. See ~~452 CFR § 75.322~~200.315(e). See also:

the definition of • ~~the definition of research data at 45 CFR § 75.322(e)(3).~~

- ~~the definition of~~ records, which includes research data at 45 CFR § 5.3.

Excluded are:

- drafts of scientific papers

- plans for future research
- peer reviews
- communications with colleagues
- physical objects (e.g., laboratory samples, audio or video tapes)
- trade secrets
- commercial information
- materials necessary to be held confidential by a researcher until publications in a peer-reviewed journal
- information that is protected under the law such as intellectual property
- personnel, medical files, and similar files, if disclosure would constitute an unwarranted invasion of personal privacy
- information that could be used to identify a particular person in a research study

If the research data are publicly available, HHS directs the requester to the public source. Otherwise, the ~~awarding~~ agency FOIA coordinator handles the request, consulting with the recipient and the PI. ~~The recipient~~HHS may charge a reasonable fee to cover ~~their~~the costs to respond. ~~HHS~~ (that may ~~also cover~~ the ~~same~~recipient's cost to respond).

This requirement to release research data does not apply to for-profit organizations or to research data produced by state or local governments. However, if a state or local government recipient contracts with an educational institution, hospital, or non-profit organization, and the contract results in covered research data, those data are subject to disclosure.

#### **3.4.11.3: Patents and Inventions**

Inventions conceived or first actually reduced to practice under awards are governed by the Bayh-Dole Act, [35 USC 200-212](#), and implementing regulations at [37 CFR ~~part~~ 401](#).

The regulations at [37 CFR ~~§~~ 401](#) apply if both the following are true:

- Inventions result from federally funded research ~~-, and~~ [and](#)
- Your organization or your subrecipient or contractor is a university, non-profit entity, governmental entity, or small or large business.

See [iEdison](#) for more information.

#### **3.4.11.4: Royalties and Licensing Fees from Copyrights, Inventions, and Patents**

You may commercially apply intellectual property and require payments for its use.

Unless the NoA says otherwise, you do not have to report program income earned from license fees and royalties. This includes copyright-protected material, patents, patent applications, trademarks, and inventions made under an award.

You may pay royalties to others as an allowable direct cost.

See ~~452 CFR § 75.448~~200.448.

#### **3.4.11.5: Invention Reporting**

For information, see [Invention Reports at iEdison](#). See also [37 CFR ~~part~~ 401](#).

Seek

the advice of the GMS about:

- Whether an invention made under a career development award is a subject invention
- The extramural technology transfer policy
- Reporting of inventions

### **3.4.12: Publications and Acknowledgement of Support**

#### **3.4.12.1: Publications**

HHS encourages you to publish the results and accomplishments of awards. You can publish your results without prior approval. These policies apply, unless otherwise specifically addressed in your NoA:

- You may assert copyright in scientific and technical articles based on data produced under the award.

- You may transfer copyright to the publisher or others for journal publication or other professional activities.
- All copyrights, including transfers, are subject to a royalty-free, non-exclusive and irrevocable license to the federal government, and any agreement must include that the assignment is subject to the government license.
- You must account for royalties and income earned from a copyrighted work as specified by the ~~awarding~~ agency.
- You must submit one copy of each publication resulting from work under an award with the annual or final progress report [and/or where you may be directed in your award](#).
- If you plan to issue a press release about award-supported activities, you must notify the ~~awarding~~ agency in advance to allow for coordination.

#### **3.4.12.2: Stevens Amendment**

HHS will include the following information in your NoA and NOFO. When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents – such as toolkits, resource guides, websites, and presentations – describing the projects or programs funded in whole or in part with HHS funds, the recipient must clearly state:

- the percentage and dollar amount of the total costs of the program or project funded with

federal money; and

- the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

The NoA may provide further instructions and language to use.

### **3.4.12.3: Acknowledgement of Support**

When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents – such as ~~tool kits~~ toolkits, resource guides, websites, and presentations (hereafter “statements”) – describing the projects or programs funded in whole or in part with U.S. Department of Health and Human Services (HHS) federal funds, the recipient must clearly state:

- the percentage and dollar amount of the total costs of the program or project funded with federal money; and,
- the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

When issuing statements resulting from activities supported by HHS financial assistance, the recipient entity must include an acknowledgement of federal assistance using one of the following or a similar statement.

- If the HHS Grant or Cooperative Agreement is NOT funded with other ~~non-~~ governmental non- governmental sources: This [project/publication/program/website, etc.] [is/was] supported by the [full name of the ~~OPDIV/STAFFDIV~~ agency] of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX

with 100 percent funded by [~~OPDIV/STAFFDIV~~[agency](#)]/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by [Name of the ~~Awarding~~ Agency]/HHS], or the U.S. Government. For more information, please visit [Award Agency Stevens Amendment website, if available].

The HHS Grant or Cooperative Agreement IS partially funded with other nongovernmental sources:

- This [project/publication/program/website, etc.] [is/was] supported by the [full name of the HHS ~~Awarding~~ Agency] of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with XX percentage funded by [full name of the HHS ~~Awarding~~ Agency]/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by [~~Awarding~~ Agency]/HHS, or the U.S. Government. For more information, please visit [Award Agency's Stevens Amendment website, if available].

## **3.5: Oversight and Monitoring**

### **3.5.1: Subrecipient Flow-Down Requirements**

The GPS applies to subrecipients and contractors. This includes consortium agreements where the recipient collaborates with other organizations.

The terms and conditions of awards flow down to subawards and subrecipients unless a particular GPS policy or award term and condition specifically says otherwise.

You ~~have to~~must have a formal written agreement with each subaward recipient. You must include applicable GPS requirements in your subaward agreements. Agreements must meet programmatic, administrative, financial, and reporting requirements. At a minimum, the subaward agreement must include:

- the PI or PD and subrecipient staff responsible for the program activity, including roles and responsibilities<sub>u</sub>
- program administration and monitoring procedures<sub>u</sub>
- policies and process for subrecipient funding, such as allowable costs, expenditure approval, funding caps, payment method and schedule, required documentation<sub>u</sub>
- travel, salaries, and fringe benefit policies and procedures<sub>u</sub>
- applicable public policy requirements and applicable assurances and certifications and provisions indicating the intent of the subrecipient to comply, including submission of applicable assurances and certifications<sub>u</sub>
- conflict of interest requirement<sub>u</sub>
- provisions regarding property, program income, publications, reporting, record retention, and audit<sub>u</sub>



### **3.5.2: Reporting**

You must submit financial, performance, and other reports. Not meeting reporting requirements could result in enforcement actions. These actions include those in the Remedies for Noncompliance section of the GPS including ~~452 CFR §§ 75.371-.380~~[200.339 through 200.343](#), and reporting to Responsibility/Qualification in SAM.gov (formerly FAPIIS).

#### **3.5.2.1: Federal Financial Reports**

You submit Federal Financial Reports (FFRs) through the Payment Management System (PMS).

How often you need to submit an FFR is in the NoA. This can range from quarterly to annually. Higher risk recipients may report more often.

Updated information on FFRs is at the [Program Support Center for PMS](#).

You may need to revise your FFR in some cases. You must submit a revised FFR to HHS immediately for overcharges. You also must submit revised FFRs as soon as possible for expenditures that you did not report before. You must explain why the revision is necessary and how you will prevent this in the future. For annual FFRs, [it is HHS policy that](#) revisions are due no later than 9 months from the end date. For final FFRs, [it is HHS policy that](#) revisions are due no later than 6 months after the end date. The agency will tell you how your award will be updated if revised FFRs are accepted.

PLEASE NOTE: The GMS may not accept a revised interim FFR submitted by the recipient that claims

additional expenditures after one year from the end of the reporting period (regardless of when the original report was ~~actually~~ submitted).

### **3.5.2.2: Progress Reports**

You submit progress reports through [GrantSolutions](#) or [NIH eRA](#).

The reporting schedule and requirements are in the NoA. Schedules can range from quarterly to annually. Higher risk recipients may report more often [as part of a special condition of their award](#).

See ~~45~~[2 CFR § 75.342](#)~~200.329(b)(1)~~.

### **3.5.2.3: Other Reporting**

#### *Intellectual Property Reporting*

If you have a research award, you must report on patents and inventions through iEdison ([iEdison | NIST](#)).

Each competing continuation application and progress report (when used in lieu of a non-competing continuation application) must indicate whether ~~or not~~ any subject inventions were made during the preceding budget period.

#### **3.5.2.3.1: Invention Reporting**

You must report on inventions. The [iEdison website](#) includes information on invention reports. See also [37 CFR ~~part~~ 401](#).

You must also submit an annual invention use report for:

- all inventions to which title has been elected<sup>7.4</sup> and
- inventions that have been licensed but not patented (research tools).

The utilization report provides a way to evaluate the extent of commercialization of subject inventions, consistent with the objectives of the [Bayh-Dole Act](#).

Contact the GMS for questions, including:

- if inventions under a career development award is a subject invention
- the extramural technology transfer policy
- reporting and use of inventions

#### **3.5.2.3.2: Real Property Reporting**

##### ***Real Property Reporting***

Construction awards must report the status of real property each year for as long as the federal government retains an interest, up to 15 years. If the federal interest lasts beyond 15 years, the ~~awarding~~ agency or pass-through entity may require the recipient to report at various multi-year frequencies.

#### **3.5.2.4: Non-Compliance**

##### **3.5.2.4.1: Failure to Submit Reports**

When you fail to submit required reports within the time allowed, the ~~awarding~~ agency may take enforcement

actions including those in the Remedies for Noncompliance section of the GPS.

#### **3.5.2.4.2: Overdue Reports**

An ~~awarding~~ agency may give a waiver, if permitted by law, or extension if a report is overdue and the reason is beyond your control.

Failure to meet a new date may result in the ~~awarding~~ agency taking enforcement actions.

Submission of a required report does not necessarily fulfill your obligation. Reports must meet content requirements. You must provide the revised report by the indicated due date to avoid enforcement actions.

#### **3.5.2.5: Fraud, Waste, and Abuse**

Fraud, waste, or abuse related to HHS awards or use of award funds should be reported to HHS.

Fraud, waste, and abuse may be reported:

- By telephone at 1-800- HHS-TIPS (1-800-447-8477) or TTY at 1-800-377-4950
- Fax at 1-800-223-8164. Forms for use are available at the [OIG website](#).
- E-mail at [HHSTips@oig.hhs.gov](mailto:HHSTips@oig.hhs.gov)
- USPS mail at U.S. Department of Health and Human Services, Office of Inspector General, Attn: OIG Hotline Operations, P.O. Box 23489, Washington, DC 20026.

If you report, you are not required to give your name, but if you do, your identity is kept confidential.

Fraud, waste, and abuse includes embezzlement, misuse or misappropriation of award funds or property, and false statements or claims. Examples include:

- theft of award funds for personal use
- using funds for non-award-related purposes
- theft of federally owned property or property acquired or leased under an award
- charging inflated building rental fees for a building owned by the recipient
- submitting false financial report
- submitting false financial data in bids submitted to the recipient

The federal government may pursue administrative, civil, or criminal action under a variety of statutes that relate to fraud and false statements or claims. Even if no award is made, you may be subject to penalties if information submitted as part of an application is found to be false, fictitious, or fraudulent. See the statutes referenced in [Appendix D](#) and [Appendix E](#) for statutes related to fraud, waste, and abuse.

#### **3.5.2.6: Paperwork Reduction Act**

The Paperwork Reduction Act (PRA), [44 USC 35](#), as implemented by [5 CFR ~~part~~ 1320](#), is designed to:

- Reduce, minimize, and control burdens
- Maximize the practical use and public benefit of the information created, collected, disclosed, maintained, used, shared, and disseminated by or for the federal government

OMB clearance is required for ~~awarding~~ agency collection of information. This includes all application or reporting forms, whether paper or electronic. Below is information about how the PRA is implemented.

### **3.5.2.7: Federally Sponsored Surveys**

Recipients may use award funds to collect information through surveys or questionnaires:

- When the collection of information is not a primary objective of the award but is incidental to, or is an integral part of, an award-supported activity.
- When the collection of information is a primary objective of the award, but such information is not intended primarily for use by the federal government, or a party designated by the federal government.

When information is collected, according to either of the two conditions above, you may not represent what the information is being collected for, or in association with, unless:

- You receive ~~awarding~~ agency approval; and
- You follow OMB report clearance procedures, when required. When OMB approval is required, the ~~awarding~~ agency, rather than the recipient, will obtain the necessary clearance.

OMB clearance is required whenever the HHS ~~awarding~~ agency sponsors the use of a reporting form or plans to collect identical kinds of information or data from 10 or more people.

Information collection is considered HHS ~~awarding~~-agency-sponsored when any of the following circumstances exist:

- The ~~awarding~~-agency allows you to state that the information is being collected for, or in association with, the ~~awarding~~-agency.
  - You use the report form or collect information that an ~~awarding~~-agency has requested for the planning, operation, or evaluation of its program.
- The award terms and conditions provide ~~awarding~~-agency approval of the study design, questionnaire content, or data collection procedure.
- The award terms and conditions provide for either submission of the data for individual respondents or the preparation and submission of special requested tabulations to the ~~awarding~~-agency.

HHS and OMB approval may also be required if the use of a report form or plan presents a relatively high risk of unwarranted privacy invasion.

Collection of the following types of information is not subject to the clearance requirements at [5 CFR §-1320](#):

- health professions data as described in [Section 708 of the Public Health Service \(PHS\) Act](#)
- tests or examinations of individuals for determining knowledge, abilities, or aptitudes, and the collection of information for identification or classification in connection with such tests
- information from patients to be used exclusively for research of or direct treatment of a clinical disorder; for the interpretation of biological analyses of body fluids, tissues, or other specimens; or for identification or classification of such specimens

See [5 CFR ~~§~~ 1320](#) for additional clearance requirement exemptions.

### **3.6: Remedies for Noncompliance**

If you do not comply with award terms and conditions, the ~~awarding~~ agency or pass-through entity may take enforcement actions, in accordance with applicable statutes, regulations and policy.

You usually have an opportunity to correct the deficiencies unless there is a serious threat to public health or welfare concerns. The ~~awarding~~ agency may take necessary proactive steps to protect the federal government's interests. ~~Awarding agencies~~ [Agencies](#) may take any action allowed by law, including those below. See [452 CFR ~~§§~~ 75.371 .380. 200.339 through 200.343.](#)

#### **3.6.1: Implementation of Specific Award Conditions**

An ~~awarding~~ agency or pass-through entity may place [corrective](#) specific conditions on an award. ~~The purpose is corrective. This remedy may be used if you:~~ [to address issues with your award compliance.](#)

- ~~fail to comply with the terms and conditions of an award~~
- ~~fail to meet expected performance goals~~



- ~~are not otherwise responsible~~

When the ~~awarding~~ agency or pass-through entity imposes specific award conditions, they will notify you of:

- the nature of the conditions
- the reason why
- the type of corrective action needed
- the time allowed for completing corrective actions
- the method for requesting reconsideration of the conditions

Examples of specific award conditions are removing a ~~PD~~/PI/PD, converting your award from advance payment to reimbursement, and adding reporting requirements.

See [452 CFR ~~§ 75.207~~ 200.208](#).

### **3.6.2: Disallowed Costs**

HHS may disallow all or part of the cost of an activity or action determined not in compliance. This can happen at any time during the award or after closeout.

You must repay disallowed costs with non-federal funds or an offset from future year funds. You may appeal disallowed costs.

### **3.6.3: Other Remedies**

Depending on the nature of the deficiency, an ~~awarding~~ agency also may:

- temporarily withhold payment
- withhold further awards for the project or program

### **3.6.4: Suspending Award Activities or Termination**

Consistent with ~~452 CFR § 75.372(a)~~200.339 and 2 CFR 200.340, an ~~awarding~~ agency or pass-through entity may suspend, ~~pending corrective action~~, or terminate all or part of your award activities ~~pending your corrective action~~ if you fail to materially comply with the award terms and conditions. See ~~452 CFR part 75~~200 Subpart D—Remedies for Noncompliance.

The HHS ~~awarding~~ agency generally will suspend, rather than immediately terminate, a federal award. This allows you an opportunity to take appropriate corrective action before making the decision to terminate. The HHS ~~awarding~~ agency may decide to terminate the federal award if you do not take appropriate corrective action during the period of suspension.

Under a suspension, the HHS ~~awarding~~ agency will provide you:

- What project activities, if any, will take place during the period of suspension.
- What costs the HHS ~~awarding~~ agency will reimburse if the enforcement action is ultimately lifted, and the award resumed.
- What corrective actions must occur during the enforcement action.

- The HHS ~~awarding~~ agency's intent to terminate the award if the non-federal entity does not meet the conditions of the enforcement action.

The HHS ~~awarding~~ agency may terminate without first suspending the federal award if the problem is serious enough or if public health or welfare concerns require immediate action. Termination for ~~cause~~ failure to comply with terms of award may be appealed under the HHS ~~awarding~~ agency and HHS's federal award appeals procedures (45 CFR Appendix A to part 16).

A federal award also may be terminated, in whole or partially, by the recipient or by the HHS ~~awarding~~ agency with the consent of the recipient. If you decide to terminate a portion of a federal award, the HHS ~~awarding~~ agency may determine that the remaining portion will not accomplish the original purpose. In this case, you will be advised of the possibility of termination of the entire federal award and will be allowed to withdraw your termination request. If you do not withdraw your request for partial termination, the HHS ~~awarding~~ agency may terminate the entire federal award ~~for cause~~. See 45-2 CFR § 75.372-200.340.

When an HHS ~~awarding~~ agency terminates a federal award prior to the end of the period of performance due to the non-federal entity's material failure to comply with the federal award terms and conditions, the HHS ~~awarding~~ agency must report the termination to the OMB-designated integrity and performance system accessible through the Responsibility/Qualification System in Sam.gov. This information will be reported after the non-federal entity has exhausted its opportunities to object or challenge the decision or has not within 30 calendar days after being notified of the termination informed the HHS ~~awarding~~

agency that it intends to appeal the decision to terminate. For full information on reporting termination in FAPIIS, see [452 CFR § 75.372200.340\(bc\)](#).

Federal awards may also be terminated if an award no longer effectuates the program goals or agency priorities, in line with 2 CFR 200.340(a)(4).

HHS applies appeal rights in line with [452 CFR § 75.374200.342](#). Appeals rights exist for termination actions that are a remedy for non-compliance.

#### **3.6.4.1: Suspension or Debarment**

An ~~awarding~~ agency may initiate suspension or debarment proceedings under [2 CFR ~~part~~ 180](#) and HHS ~~awarding~~ agency regulations at [2 CFR ~~part~~ 376](#). A pass-through entity may recommend that the ~~awarding~~ agency do so for a subaward.

### **3.7: Closeout**

To close an award, you do several steps to include submitting a final report. Ask your GMS and review the closeout provisions HHS now follows at [2 CFR ~~§~~ 200.344](#). The ~~awarding~~ agency will resolve any amounts due to them or to you.

Upon the completion date of an award, you have 120 days to liquidate all financial obligations and submit all required reports, including a final FFR, final progress report, tangible and real property reports (if needed), and Final Invention Statement and Certification (if needed). The GMO or their delegate may give an extension upon a written request. Not submitting timely and accurate reports can affect future funding. HHS may close out your award on its own if you fail to provide your reports on time.

HHS may still disallow costs or recover funds based on an audit or review after your award is closed out. After closeout, you still ~~have to~~must return any funds due to HHS because of refunds, corrections, indirect cost rate adjustments, or other transactions.

You still need to account for property acquired on your award and follow disposition and record retention requirements after close out. ~~HHS adopted two 2 CFR § 200 provisions about equipment and salary disposition:~~

- ~~2 CFR § 200.313(e) Equipment: Increases from \$5,000 to \$10,000 the value of equipment that at the end of the grant period “may be retained, sold, or otherwise disposed of with no further responsibility to the Federal agency.” The provision also clarifies that Indian Tribes may use their own procedures for use, management, and disposal of equipment. If they do not have procedures, then they must follow the ordinary guidance.~~
- ~~2 CFR § 200.314(a) Unused Supplies: Increases from \$5,000 to \$10,000 the value of unused supplies that recipients of Federal funds are required to sell at the end of the grant award period as well as clarifying that this amount is the total amount of remaining unused supplies, not just like items.~~

See ~~452 CFR §§ 75.317-323~~Subpart D Property Standards for other disposition requirements. See ~~452 CFR §§ 75.361-75.365~~200.334 through 200.338 for record retention requirements. ~~Keep in mind the above changes in equipment and supply costs adopted by HHS in 2 CFR § 200.~~

### **3.7.1: Final Federal Financial Report (FFR)**

A final FFR is required for all ~~of~~ the following:

- terminated awards
- awards transferred to new recipients
- awards at the end of a period of performance

Final FFRs must:

- account for all funds awarded during the period of performance

- have no unliquidated obligations
- say the exact unobligated balance

In some cases, you may need to submit a revised FFR. When a revised final FFR results in additional recipient claims, the ~~awarding~~ agency will consider approval if:

- You show why the revision is needed, explains, and implements internal controls to avoid similar future situations
- The charge is allowable under the award
- There is an unobligated balance for the budget period that can cover the claim
- The funds are still available

- The ~~awarding~~ agency receives the revised ~~FSR~~FFR within 6 months of its original due date

### **3.7.2: Final Progress Report**

A final progress report is required for all ~~of~~ the following:

- terminated awards
  - awards at the end of the performance period

Submit final progress reports as directed in your NoA.

Use the ~~awarding~~ agency instructions. At a minimum, they include:

- a summary of progress towards achieving the stated aims
- significant results, positive or negative
- publications

If you submit a competing continuation application, the final progress report requirement may be met by the information included in that application.

### **3.7.3: Final Invention Statement**

For research awards, you must submit a Final Invention Statement and Certification (HHS 568). HHS requires this statement even if the award does not result in any inventions. The HHS 568 is at the iEdison Web site at [iEdison | NIST](#).

The HHS 568 lists all inventions conceived or initially reduced to practice under the award. The form must be signed by the PI or PD and AOR. The form covers the period from the original award start date through the award end date. If there were no inventions, the form should indicate “None.”

### **3.8: Post-Closeout**

After award closeout, you still have obligations for record retention, property accountability, and financial accountability. See ~~45 CFR §§ 75.317-.323 and 75.343.~~ [Subpart D Property Standards, 2 CFR 200 Subpart D Record Retention and Access, and 2 CFR 200.330.](#)

### **3.8.1: Record Retention and Access**

You must keep financial, supporting, and statistical records, and all other records considered pertinent to an award.

The retention periods are three years after sending:

- the final FFR for closed awards
- quarterly or annual reports for awards renewed quarterly or annually

These periods are extended until the conclusion of any litigation matters, claims, or audits and audit findings are fully resolved.



You must allow records access to the:

- HHS ~~Awarding~~ Agency
- Inspector General
- Comptroller General
- Pass-through Agency

See:

- Retention requirements for records (~~452 CFR § 75.361~~200.334)
- Access to records (~~452 CFR § 75.364~~200.337)
- Restrictions on public access to records (~~452 CFR § 75.365~~200.338)

### **3.8.2: Debt Collection**

During or after closeout, HHS may find that you received more than the correct amount or that you misspent funds. This may result from disallowed costs, recovery of funds, unobligated balances, or other situations. In these cases, HHS will consider this amount a debt and send you a request for repayment. ~~Debts to HHS agencies are considered delinquent 30 days after you are notified.~~ You have 90 calendar days to repay the amount.

If you do not pay back the funds in 90 calendar days, the HHS ~~awarding~~ agency may reduce your debt by:

- making an administrative offset against payments on other HHS awards<sub>;</sub>
- withholding advance payments<sub>;</sub>
- taking other action allowed by law<sub>;</sub>

HHS must, by law, collect debts due to the federal government. Unless prohibited by law, HHS is also required to charge interest on delinquent debts.

See Collection of Amounts Due (~~452 CFR § 75.391~~200.346) for more.

You may appeal a request for repayment. If appealed, HHS suspends the collection pending a final appeal decision. If denied, in whole or in part, HHS will charge interest on the debt starting with the

date of the original request for repayment.

Refer to the HHS Claims Collection ([45 CFR part 30](#)) and the Program Support Center's Debt Management Collection System at <https://pms.psc.gov/> for more on collection of debts.

### **3.9: Appeals**

~~Awarding agencies~~[Agencies](#) may have their own appeals procedures. See also the procedures of the Departmental Appeals Board ([45 CFR part 16](#)).

~~Awarding agencies~~[Agencies](#) and recipients may use alternative dispute resolution (ADR). ADR can reduce the cost, time, and level of dispute involved in appeals.

For more information on appeals, see ~~Opportunities to Object, Hearings, and Appeals (45 CFR § 75.374)~~ and the [Departmental Appeals Board website](#).

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## **Chapter 4: Single Audit**

An audit is a review to verify if accounting and control systems reasonably assure:

- proper financial operations
- timely, fair, and correct financial reports
- compliance with applicable laws, regulations, and terms and conditions of award
- resources are managed and used economically and efficiently
- desired results and objectives are being achieved effectively
- recipients and subrecipients follow the audit requirements of [452 CFR part 75, subpart 200 Subpart F](#).

### **4.1: Audit Requirements**

As of October 1, 2024, you and your subrecipients must have an audit if either spends \$1,000,000 or more in federal awards during its fiscal year (see [2 CFR § 200.501](#)). Even if an audit is not required, keep records available for review by federal officials.

You must use an independent auditor who must follow the [Government Auditing Standards](#) and the [audit requirements in 452 CFR 75, subpart 200 Subpart F](#). Audit costs are allowable and often covered by the indirect cost rate.

Pass-through entities are responsible for establishing audit requirements, to ensure compliance by subrecipients.

HHS may request more audits, if necessary.

### **4.2: Types of Audits**

Program Specific Audit: test a single program. Refer to [452 CFR § 75.507 200.507](#).

- Single Audit: The auditor uses a risk-based approach to identify major programs which the auditor tests and provides an opinion on compliance. See [452 CFR part 75, subpart 200 Subpart F](#).
- Financial Related Audit: Specific to for-profit organizations. Must be conducted in accordance with the [Government Auditing Standards](#).

[For other types of audits, see 2 CFR 200.501.](#)

### **4.3: Audit Options**

If an audit is required, the following options are available:

#### **4.3.1: For Governments, Indian Tribes, Institutions of Higher Education, and Non-Profits**

- Only one program: If ~~federal awards are expended~~ your organization expends funds in only one program, ~~the program-specific audit is an option~~ you may use a program-specific audit as per 2 CFR 200.501(c) and 200.501(d).
- ~~Multiple programs: If federal awards are expended from more than one program, a single audit is required.~~

- Multiple programs: If your organization expends \$1,000,000 or more in funds from more than one program, a single audit is required, as per 2 CFR 200.501(b).

See full audit requirements in 2 CFR 200.501.

### **4.3.2: For-Profit Organizations**

- Only one program: If federal awards are in only one program, then they may opt for a program-specific audit or financial related audit of the award.
- Multiple programs: If federal awards are in more than one program, then they must have a single audit or financial related audit of all awards.

### **4.3.3: Contractors**

Audit requirements for federal awards do not apply to contractors with annual HHS awards less than \$1,000,000. See 2 CFR ~~§ 200.501~~.

### **4.3.4: Foreign Entities**

Audit requirements and processes for foreign entities will be addressed in your NOFO and NoA.

## **4.4: Recipient Responsibilities**

- Procure or otherwise arrange for the required audit and make sure it is performed properly. See ~~452 CFR § 75.509~~ 200.509.
- Provide the auditor with access to needed personnel, accounts, books, records, supporting documentation, and other information.
- Prepare financial statements, including the schedule of federal award expenditures. See ~~452 CFR § 75.510~~ 200.510.
- Make sure the audit is submitted within 30 days after receiving the auditor's report or 9 months after your fiscal year end, whichever is earlier. See ~~45-2 CFR § 75.512~~ 200.512.
  - Promptly follow up and take corrective action on audit findings.

See ~~452 CFR § 75.508~~ 200.508 for a listing of auditee responsibilities.

## **4.5: Audit Findings and Resolution**

Non-Federal entities and their subrecipients must follow up and take corrective action on all audit findings. This includes preparing:

- a summary schedule of prior audit findings. See ~~452 CFR § 75.511~~ 200.511(b)-
- a corrective action plan. See ~~452 CFR § 75.511~~ 200.511(c)-

#### **4.5.1: Requirements**

The summary schedule and the corrective action plan must include:

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- reference numbers the auditor assigns to audit findings under ~~452 CFR § 75.516~~200.516(c);
- the fiscal year in which the finding initially happened; and
- findings relating to the financial statements required to be reported under Government Auditing Standards

See ~~452 CFR § 75.511~~200.511.



## **4.6: Report Submission**

Reports for non-profit recipients are submitted to the [Federal Audit Clearinghouse \(FAC\)](#). For-profit and foreign recipients submit reports to ~~ARD or the Centers for Disease Control (CDC) (if CDC is the awarding agency)~~ [the HHS Audit Resolution Division at \[AuditResolution@HHS.gov\]\(mailto:AuditResolution@HHS.gov\)](#).

The HHS assignment system receives single audit reports from the FAC and assigns audit findings to the ~~awarding~~ agencies for resolution.

Both you and your auditors must complete and submit your portions of the reporting package to FAC. They are due within 30 calendar days after receipt of the auditor's report or nine months after the end of the ~~auditee's fiscal year~~.

[audit period, whichever is earlier](#). See ~~452 CFR § 75.512~~ [200.512](#).

### **4.6.1: Documentation**

[Ensure that the basis for valuing services, materials, equipment, buildings, and land can be verified. Make sure your records, including those from your subrecipients, can support the value. If using volunteer services, document their time and attendance as you would for regular employees.](#)

### **4.6.2: Delinquent Audits**

HHS will follow up to obtain audit reports that are delinquent.

If required audits are not completed or do not follow ~~2 CFR part 200 and 45 CFR part 75~~, audit costs may be disallowed or other sanctions may be taken.

## **4.7: HHS Office of Inspector General**

The HHS Office of Inspector General (OIG) audits programs and their recipients to ensure funds are used correctly and guard against fraud and waste. The OIG:

- can freely access records and information
- can request information and documents through subpoenas
- acts as the National Single Audit Coordinator, giving audit guidance to HHS agencies and recipients

You need to have strong internal controls and guidelines must be in place to ensure proper use of federal funds.

## **Documentation**

~~Ensure that the basis for valuing services, materials, equipment, buildings, and land can be verified. Make sure your records, including those from your subrecipients, can support the value. If using volunteer services, document their time and attendance as you would for regular employees.~~

## **4.8: Additional Information**

### **4.8.1: Cooperative Audit Resolution and Management Decisions**

Cooperative audit resolution is a structured approach that brings the appropriate stakeholders together to address audit findings and proposed corrective actions. [See 2 CFR 200.513\(c\)\(3\)\(iii\).](#) Non-federal entities must follow this approach to ensuring timely and appropriate resolution of audit findings and recommendations. ~~The non-federal entity must initiate and proceed with corrective action as quickly as possible and corrective action should begin no later than upon receipt of the audit report.~~ [Recipients usually are allowed 30 days from the date of request to respond to the responsible audit resolution official.](#)

The HHS ~~awarding~~ agency will coordinate with the non-federal entity during the cooperative audit resolution process. The HHS ~~awarding~~ agency will:

- Follow-up on audit findings to ensure the non-federal entity takes appropriate and timely corrective action.
- Issue a management decision, on all assigned reporting packages with audit findings within six months of the date the FAC accepts the reporting package.
- Issue sanctions when the non-federal entity fails to correct conditions identified by audits that are likely to cause improper payments, fraud, waste or abuse.

The HHS ~~awarding~~ agency or pass-through entity responsible for issuing a management decision must do so within 6 months of acceptance of the audit report by the FAC. The management decision provides timely information to the non-federal entity regarding where the HHS ~~awarding~~ agency is in evaluating findings and related corrective actions. The HHS ~~awarding~~ agency management decision will include:

- whether or not the audit finding is sustained<sub>;</sub>
- the reasons for the decision<sub>;</sub>
- the expected action the non-federal entity must take to repay disallowed costs, make financial adjustments, or take other action<sub>;</sub>
- a timetable for follow-up if then non-federal entity has not completed corrective action; and
- a description of the appeal ~~process~~processes available to the non-federal entity<sub>;</sub>

## Appendix A: Awarding Agencies Overview

Below is an overview of HHS ~~awarding~~ agencies. Visit [HHS Organization Chart | HHS.gov](https://www.hhs.gov/organization-chart/) for more. GPS refers to “Public Health Service (PHS) agencies.” We have marked them below.

Agency	Overview	Support
Administration for Children and Families (ACF) <a href="https://www.acf.hhs.gov">www.acf.hhs.gov</a>	Promotes economic and social well-being of children, families, and communities.	<ul style="list-style-type: none"> <li>childcare for low-income families</li> <li>foster care and adoption</li> <li>child abuse and domestic violence prevention</li> </ul>
Administration for Community Living (ACL) <a href="https://www.acl.gov">www.acl.gov</a>	Advocates for older adults, people with disabilities, families, and caregivers to help all people live independently and participate in their communities.	<ul style="list-style-type: none"> <li>health, wellness, and nutrition</li> <li>self-advocacy</li> <li>connecting people to services</li> <li>retirement planning</li> <li>American Indian, Alaska Native, and Native Hawaiian nutrition and older adult support</li> </ul>
Agency for Healthcare Research and Quality (AHRQ) <a href="https://www.ahrq.gov">www.ahrq.gov</a>	Improves quality, safety, accessibility, equitability, and affordability of US health care.	<ul style="list-style-type: none"> <li>digital healthcare research</li> <li>DSNet (Patient Safety Network)</li> </ul>
PHS agency		<ul style="list-style-type: none"> <li>quality indicators</li> </ul>
Administration for Strategic Preparedness and Response (ASPR) <a href="https://www.aspr.hhs.gov">www.aspr.hhs.gov</a>	Assists the country in preparing for, responding to, and recovering from public health emergencies and disasters.	<ul style="list-style-type: none"> <li>development and stockpiling of medical countermeasures</li> <li>pandemic preparedness</li> </ul>
Assistant Secretary for Technology Policy/Office of the National Coordinator for Health Information Technology (ASTP) <a href="https://www.healthit.gov">www.healthit.gov</a>	Administers health IT efforts and is a resource to the entire health system to support the adoption of health information technology and the promotion of nationwide, standards-based health information exchange to improve health care.	<ul style="list-style-type: none"> <li>advance development and use of health IT capabilities</li> <li>establish expectations for data sharing</li> </ul>
Centers for Disease Control and Prevention (CDC) <a href="https://www.cdc.gov">www.cdc.gov</a>	Protects against health and public health, safety, and security threats. Their focus is both foreign and domestic.	<ul style="list-style-type: none"> <li>immunization services</li> <li>monitoring and preventing disease outbreaks</li> </ul>
PHS Agency		<ul style="list-style-type: none"> <li>disease prevention strategies</li> <li>workplace safety</li> </ul>

Centers for Medicare & Medicaid Services (CMS) <a href="http://www.cms.gov">www.cms.gov</a>	Advances health <del>equity</del> <a href="#">standards and quality</a> , expanding coverage, and improving health outcomes.	<ul style="list-style-type: none"> <li>clinical standards and quality</li> <li><del>minority health equity</del></li> <li>meaningful measures</li> </ul>
Food and Drug Administration (FDA) <a href="http://www.fda.gov">www.fda.gov</a> <a href="#">FDA Grants and Cooperative Agreements Page</a>	Protects public health by ensuring the safety of human and veterinary drugs, biological products, medical devices, cosmetics, and food.	<ul style="list-style-type: none"> <li>food safety</li> <li>animal feed safety</li> <li>laboratory systems</li> <li>scientific conferences</li> </ul>
PHS Agency		
Health Resources and Services Administration (HRSA) <a href="http://www.hrsa.gov">www.hrsa.gov</a>	Provides access to essential health care services for people who are low-income, uninsured, or live in areas with limited access.	<ul style="list-style-type: none"> <li>rural health</li> <li>maternal and child health</li> <li>opioid response</li> <li>health workforce training</li> <li>telehealth</li> </ul>
PHS Agency		
Indian Health Service (IHS) <a href="http://www.ihs.gov">www.ihs.gov</a>	Ensures comprehensive, culturally appropriate personal and public health services are available to American Indians and Alaska Native people.	<ul style="list-style-type: none"> <li>community health</li> <li>behavioral health</li> <li>environmental stability</li> <li>school health</li> </ul>
PHS Agency		
National Institutes of Health (NIH) <a href="http://grants.nih.gov">grants.nih.gov</a>	Seeks knowledge about the nature and behavior of living systems. Applies it to enhance health, lengthen life, and reduce illness and disability.	<ul style="list-style-type: none"> <li>biomedical and behavioral research</li> <li>research training</li> <li>research infrastructure and communications</li> </ul>
PHS Agency		
Office of the Assistant Secretary (OASH) <a href="http://www.hhs.gov/ash">www.hhs.gov/ash</a>	Seeks to serve the public through responsive public health actions to promote healthy and safe environments and prevent harmful exposures.	<ul style="list-style-type: none"> <li>minority health</li> <li>family planning</li> <li>adolescent health</li> <li>women's health</li> <li>infectious disease and HIV/AIDS policy</li> <li>research integrity</li> </ul>
PHS Agency		
Office of the Inspector General (OIG) <a href="http://www.oig.hhs.gov">www.oig.hhs.gov</a>	At the forefront of the Nation's efforts to fight waste, fraud and abuse and to improving the efficiency of Medicare, Medicaid and more than 100 other Department of Health & Human Services (HHS) programs.	<ul style="list-style-type: none"> <li>Medicare/Medicaid oversight</li> <li>improved efficiency</li> <li>fraud, waste, abuse detection</li> </ul>

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Substance Abuse and Mental Health Services Administration (SAMHSA) <a href="http://www.samhsa.gov">www.samhsa.gov</a>	Improves the quality and availability of substance abuse prevention, addiction treatment, and mental health services.	<ul style="list-style-type: none"> <li>• substance abuse and mental health services.</li> </ul>
PHS Agency		

For ~~awarding~~ agency staff and recipient roles and responsibilities, see the [Introduction and General Information](#) section.

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## Appendix B: ~~Abbreviations~~Acronyms and Glossary

### B.1: Acronyms

#### **~~Abbreviations~~**

Please see ~~abbreviations~~acronyms listed in 452 CFR part 75. ~~The abbreviations are used by the HHS Financial Assistance Community 200.0.~~ Although not all ~~of~~ the terms are in the GPS, they may be useful to applicants and recipients.

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## B.2: Glossary

This glossary defines terms commonly used in the HHS GPS. These definitions are for purposes of clarity and do not replace controlling definitions in applicable statutes and regulations.

<del>acquisition</del> <u>Acquisition</u> cost	<p>The total <del>invoice price of items, counting costs for changes or accessories or additions to make them work for their intended use. Costs like setup, shipping, taxes, and insurance can be included or excluded based on the recipient's usual accounting methods. The term doesn't cover rental or property modification costs.</del><u>cost of an asset, including the cost to get the asset ready for its intended use. For example, acquisition cost for equipment means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired.</u></p> <p><u>See 2 CFR § 75.2200.1 Acquisition cost.</u></p>
<del>accrual</del> <u>Accrual</u> basis	<p><u>For reports prepared on an accrual basis, expenditures are the sum of cash disbursements for direct charges for property and services, the amount of indirect expense incurred, the value of third-party in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient or subrecipient for goods and other property received, services performed by employees, contractors, subrecipients, and other payees, and programs for which no current services or performance are required, such as annuities, insurance claims, or other benefit payments.</u></p> <p><del>Accrual accounting records revenue and expenses when the transaction happens, not when money is paid.</del><u>See 2 CFR 200.1 Expenditures.</u></p>
<del>administrative</del> <u>Administ</u> <u>rative</u> requirements	<p><del>Common</del><u>The general</u> practices <del>in managing awards like that</del> <u>are common to the administration of grants, such as</u> financial accountability, reporting, equipment management, and <del>records</del> retention <u>of records</u>.</p>
<del>advance</del> <u>Advance</u> payment	<p>A payment <del>made to a recipient before they spend the money or based on set payment schedules.</del> <u>45 CFR § 75.2 Advance payment that a Federal agency or pass-through entity makes by any appropriate payment mechanism and payment method before the recipient or subrecipient disburses the funds for program purposes.</u></p>
<del>allocable</del> <u>Allocable</u> cost	<p>An allocable cost relates to a specific project or activity based on the relative benefits it provides. It's allocable to a federal award if:</p> <ul style="list-style-type: none"> <li><del>•</del> <u>•</u> It's specifically for the award<del>.</del></li> <li><del>•</del> <u>•</u> It benefits both the award and other tasks<del>,</del> and can be distributed based on those benefits<del>.</del></li> <li><del>•</del> <u>•</u> It's needed for the organization's overall functioning<del>.</del></li> </ul> <p><del>45</del><u>See 2 CFR § 75.405200.405 Allocable costs.</u></p>

<p><del>allowable</del><u>Allowable</u> cost</p>	<p>Allowable costs are:</p> <ul style="list-style-type: none"> <li>• Reasonable for the award's purpose<del>;</del></li> <li>• Allocable<del>;</del></li> <li>• Within the federal cost principles or NoA guidelines<del>;</del> <ul style="list-style-type: none"> <li>• In line with the recipient's consistent policies, covering both federal and non-federal activities<del>;</del></li> </ul> </li> <li>• Consistently treated as either a direct or indirect cost<del>;</del></li> <li>• Based on standard accounting principles<del>;</del></li> <li>• Not used in another federal award, unless statute says otherwise<del>;</del></li> </ul> <p><del>45</del><u>See 2 CFR § 75.403</u><del>200.403</del> Factors affecting allowability of costs</p>
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<del>alteration</del> <a href="#">Alteration</a> and renovation (A&R)	Alteration and renovation involve changing the inside or features of a facility or installed equipment to enhance its current use or adapt it for a new purpose. It can include improvements, remodeling, or modernization but is different from construction or major permanent upgrades.
<del>alternative</del> <a href="#">Alternative</a> dispute resolution (ADR)	A method to solve disagreements without going to court. It aims to resolve issues faster, cheaper, and in a less confrontational way, preventing them from becoming bigger problems that need formal legal action.
<del>applicable</del> <a href="#">Applicable</a> credit	Receipts that offset or reduce direct or indirect costs. Typical examples include purchase discounts, rebates, or allowances; recoveries or indemnities on losses; insurance refunds; and adjustments of overpayments or erroneous charges. <del>45</del> <a href="#">See 2 CFR 75.406 200.406</a> <a href="#">Applicable credits.</a>
<del>application</del> <a href="#">Applicatio</a> <a href="#">n</a>	A request for financial support of a project or activity submitted on specified forms and in accordance with <del>awarding</del> agency instructions. See <a href="#">Types of Applications</a> .
<del>approved</del> <a href="#">Approved</a> budget	The spending plan for a project funded by an award. This budget has both federal funds and, if applicable, non-federal funds like cost-sharing. If both types of funds are in the budget, the recipient must spend them in the same ratio as they appear in the total budget. <del>See also 45 CFR 75.2 Budget</del> <a href="#">See 2 CFR 200.1 Budget and 2 CFR 200.308 Revision of budget and program plans.</a>
<del>assurance</del> <a href="#">Assurance</a>	A written statement by an applicant, normally included with the application, that it will follow a particular requirement if there is an award.
<del>audit</del> <a href="#">Audit</a> resolution	The process of resolving audit findings, including those related to management and systems deficiencies and monetary findings like questioned costs. <del>See also 45 CFR 75.2 Cooperative audit resolution.</del>
<del>award</del> <a href="#">Award</a>	The document that provides the <del>awarding</del> agency funds to a recipient to carry out an approved project, based on an approved application. In the GPS, award means both grants and cooperative agreements. <del>45</del> <a href="#">See 2 CFR 75.2 200.1</a> <a href="#">Federal award.</a>
<del>awarding agency</del> <a href="#">Agency</a>	The agency responsible for making, monitoring, and overseeing awards. For changes in award terms or for approval requests, the reference may be to the GMS. <a href="#">This is sometimes referred to as "Federal agency" or "Federal agency."</a> <del>See also 45 CFR 75.2</del> <a href="#">200.1 Federal agency.</a>
<del>award-supported project</del>	<del>Activities described in an application or in a subsequent submission that are approved by an awarding agency for funding, even if federal money isn't the sole financial support for them.</del>
<del>award</del> <a href="#">Award</a> terms and conditions	The legal requirements set by the <del>awarding</del> agency for the award. These can come from laws, regulations, policies, or the NoA. The NoA might also add specific conditions to ensure the award's goals are met, enable post-award management, save funds, or protect federal interests.

<del>budget periods</del> <u>Budget period</u>	<p><del>The period of time (usually 12 months each) into which a period of performance is divided for budgetary and funding purposes</del><u>interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients and subrecipients are authorized to incur financial obligations of the funds awarded. Budget periods are typically 12 months.</u> Funding of individual budget periods sometimes is referred to as “incremental funding.”</p> <p><u>See 2 CFR 200.1 Budget period.</u></p>
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<del>carryover</del> <u>Carryover</u>	<del>Unspent</del> <u>Unobligated (unspent)</u> federal funds from a particular budget period that can be transferred and used in the next <u>,or later,</u> budget period <del>used</del> to cover allowable expenses in that subsequent period. Funds that have been committed but not yet spent (obligated but unliquidated) are not <del>classified under</del> <u>considered</u> carryover.
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<del>cash</del> <u>Cash</u> basis	An accounting method in which revenue and expenses are recorded on the books of account when received and paid, respectively, without regard to the period in which they are earned or incurred. It is different than accrual basis.
<del>change</del> <u>Change</u> of recipient	Transfer of the legal and administrative responsibility for an award from one legal entity to another before the end of the period of performance.
<del>closeout</del> <u>Closeout</u>	The process <del>used</del> by <u>which</u> an <del>awarding</del> agency <del>to determine whether all</del> <u>determines that all applicable</u> administrative actions and <del>work</del> <u>all</u> required <del>under</del> <u>work of</u> the award have been completed by the recipient and the <del>awarding</del> agency. <u>See 2 CFR § 200.344 Closeout.</u>
<del>Cognizant agency for ...</del> <del>cognizant agency</del>	<u>The Federal agency designated to carry out the responsibilities described in 2 CFR</u> <del>The federal agency that, on behalf of all federal agencies, reviews, negotiates, and approves cost allocation plans, indirect cost rates, and similar rates. They monitor non-federal audit reports; conduct federal audits as necessary; and resolve cross-cutting audit findings.</del> <del>The cognizant agency under applicable cost principles and under 45 CFR part 75, subpart F 200.513(a). This agency is not necessarily the same as the cognizant agency for indirect costs. A list of contacts can be found on the Federal Audit Clearinghouse (FAC) website.</del>
<u>Cognizant agency for indirect costs</u>	<del>may be different for a given recipient.</del> <u>The Federal agency responsible for reviewing, negotiating and approving cost allocation plans or indirect cost proposals on behalf of all Federal agencies. This agency is not necessarily the same as the cognizant agency for audit.</u> <u>45See 2 CFR § 75.2200.1 Cognizant agency for indirect costs.</u>
<del>competition</del> <u>Competiti</u> <u>on</u>	A process in which applications undergo a merit review and are evaluated against established evaluation criteria in the NOFO. <u>See 2 CFR 200.319 Competition.</u>
<del>completion</del> <u>Completi</u> <u>n</u> date	The date on which all work under an award is completed or the date in the NoA (as amended) on which federal sponsorship ends (i.e., the end of a period of performance).

<del>consortium</del> <a href="#">Consortium agreement</a>	A formal agreement whereby a project is carried out by a recipient and one or more other organizations that are separate legal entities. Under the agreement, the recipient must perform a substantive role in the conduct of the planned project and not merely serve as a conduit of funds to another party or parties. Consortium agreements are considered subawards.
<a href="#">Continuation funding</a>	<a href="#">The second or subsequent budget period within an identified period of performance.</a>  <a href="#">See 2 CFR 200.1 Continuation funding.</a>
<del>contract</del> <a href="#">Contract</a> under an award	A written agreement between a recipient/ <a href="#">subrecipient</a> and a third party to acquire commercial goods or services. <a href="#">This may also be called a subcontract.</a>  <a href="#">45See 2 CFR § 75.2200.1 Contract.</a>

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<del>construction</del> <a href="#">Construction</a>	A project to support the initial building or major alteration and renovation like large-scale modernization or permanent improvement of a facility.
<del>consultant</del> <a href="#">Consultant</a>	An individual who provides professional advice or services for a fee, but normally not as an employee of the engaging party. Also includes a firm that provides paid professional advice or services.
<del>cooperative</del> <a href="#">Cooperative agreement</a>	A financial assistance support mechanism used when there will be substantial federal programmatic involvement. Substantial involvement means that the <del>awarding</del> agency's program staff will collaborate or participate in project or program activities as specified in the NoA.  <a href="#">45See 2 CFR § 75.2200.1 Cooperative agreementAgreement.</a>



<del>Copyright</del> copyright	<u>Protection provided by statute (Title 17, U.S. Code) to the authors of “original</u> <del>Protection provided by statute (Title 17, U.S. Code) to the authors of “original</del> works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works, including computer programs. This protection applies to both published and unpublished works.
<del>cost</del> Cost analysis	The systematic review of a budget proposal to: <u>detail</u> <del>Detail</del> and assess cost components; <u>ensure</u> <del>Ensure</del> costs are necessary, reasonable, and allocable; <u>and confirm</u> <del>Confirm</del> alignment with federal guidelines, ensuring no unallowable expenses.
<del>cost</del> Cost sharing	<u>The portion of project costs not paid by Federal funds or contributions (unless authorized by Federal statute). This term includes matching, which refers to required levels of cost share that must be provided.</u>  See <del>“matching or cost</del> <u>2 CFR 200.1 Cost sharing.”</u>
Departmental Appeals Board (DAB)	The DAB is a board within HHS that impartially addresses disputes from HHS assistance programs. It offers a fair hearing process for challenges to certain grants management decisions, with its role and rules outlined in <u>45 CFR</u> <del>part</del> <u>16</u> . <u>45 CFR § 75.2 Departmental Appeals Board</u>
<del>direct</del> Direct costs	Costs directly linked to a specific project, instructional activity, or other institutional activities, which can be accurately and easily allocated to those activities. <u>45See 2 CFR § 75.413200.413 Direct costs.</u>
<del>domestic organization</del> Discretionary award	<u>An award in which the Federal agency, in keeping with specific statutory authority that enables the agency to exercise judgment (“discretion”), selects the recipient or the amount of Federal funding awarded through a competitive process or based on merit of proposals. A discretionary award may be selected on a non-competitive basis, as appropriate.</u>  <del>A U.S.-based public or private entity, subject to U.S. laws, responsible for the legal and financial management of awarded funds and the execution of the supported activities.</del> <u>See 2 CFR 200.1 Discretionary award.</u>
Entity Identification Number (EIN)	A 12-character code in PMS comprising three parts: the first character indicates if the recipient is an organization or individual; the following 9 characters represent the TIN for organizations or the SSN for individuals; the final 2 characters differentiate between organizational entities with the same or multiple EINs, denoting subsidiaries, branches, or other subdivisions.

<del>equipment</del> <u>Equipment</u> <del>t</del>	<p>A tangible item with a lifespan exceeding 1 year and a cost <del>of</del><u>equal to or exceeding</u> \$<del>5,000 or more</del><u>10,000</u> per unit, or <del>below</del> the recipient's capitalization threshold, whichever is lower.</p> <p><u>See 2 CFR §-200.1 Equipment.</u></p>
<del>excess</del> <u>Excess</u> property	<p>Property that, as decided by the head of the <del>awarding</del> agency or its representative, is no longer needed for the agency's functions or responsibilities.</p> <p><del>45 CFR § 75.2 Excess property</del><u>See 2 CFR 200.312(b).</u></p>
<del>exempt</del> <u>Exempt</u> property	<p>Tangible personal property bought either entirely or partly with federal funds, where the <del>awarding</del> agency has the legal authority to vest title to the recipient without additional obligations to the federal government.</p> <p><del>45</del><u>See 2 CFR §-75.319</u><u>200.312 Federally owned and exempt property.</u></p>
<del>expanded</del> <u>Expanded</u> authorities	<p>Permissions granted to recipients <u>by the agency</u> that eliminate the need for prior approval from the <del>awarding</del> agency for certain activities.</p> <p><u>See 2 CFR 200.308(g) Waiver of prior approvals.</u></p>
<u>Expenditures</u>	<p><u>The charges made to the federally sponsored project or program by a recipient or subrecipient. They may be reported on a cash or accrual basis.</u></p> <p><u>See 2 CFR 200.1 Expenditures</u></p>
<del>expiration</del> <del>date</del> <u>Extension</u>	<p><u>An additional timeframe beyond the original period of performance, granted by the agency or recipient (under expanded authority), to finalize project activities. Extensions can be funded, or no-cost.</u></p> <p><del>The specified date in the NoA marking the conclusion of the current budget period, beyond which the recipient is not authorized to obligate award funds.</del><u>See Section 3.1.4 Extensions to Awards and 2 CFR 200.309.</u></p>

<del>facilities</del> <a href="#">Facilities</a> and administrative costs (F&A)	See <del>indirect</del> <a href="#">Indirect costs</a> .
<del>federal</del> <a href="#">Federal</a> institution	A Cabinet-level department or independent agency within the executive branch of the federal government, or any of its sub-entities.
<del>federal</del> <a href="#">Federal</a> share	<del>The proportion, usually expressed as a percentage of the total project costs, that represents the financial and other direct contributions provided by the awarding agency, as detailed in the NoA.</del> <del>45 CFR § 75.2 Federal share</del> <a href="#">The proportion of the Federal award costs paid using Federal funds. See 2 CFR 200.1 Federal share.</a>
<del>fee</del> <a href="#">Fee</a>	A sum paid beyond the actual allowable costs to an entity delivering goods or services in line with standard commercial practice, often referred to as "profit."
<del>financial</del> <a href="#">Financial</a> assistance	The provision of funds, property in place of funds, or other direct aid to a qualified recipient to encourage or further a public purpose authorized by law.  <a href="#">See 2 CFR 200.1 Federal financial assistance.</a>
<del>foreign</del> <a href="#">Foreign</a> component	The <del>execution</del> <a href="#">performance</a> of a major part or component of a project outside the United States by the recipient or by a researcher affiliated with a foreign institution, regardless of whether award funds are used.
<del>foreign</del> <a href="#">Foreign</a> organization	An entity situated in a country outside of the United States and its territories, governed by the laws of that nation, regardless of the nationality of the proposed Principal Investigator/Project Director. <del>45 CFR § 75.2 Foreign organization</del>

	See 2 CFR 200.1 Foreign organization.
<del>for-profit</del> <u>For-profit</u> organization	<p>A legal entity formed for the purpose of generating profit for its shareholders or <del>owners. This type of organization is also known as a "commercial organization."</del> <u>owners.</u></p> <p>See <del>also 45 §2 CFR 75.2 Commercial</del> <u>200.1 For-profit organization, for a list of general types of organizations that this includes.</u></p>
<del>grant</del> <u>Grant</u>	<p>A funding mechanism given to an eligible entity to support a public-purpose project or activity without significant involvement from the <del>awarding</del> agency. Unlike direct benefits for the government, a grant provides financial assistance or other resources to accomplish approved objectives.</p> <p>See <del>also 45 §2 CFR 75.2</del> <u>200.1 Grant agreement or grant.</u></p>
<del>high</del> <u>High</u> risk	A recipient with a history of subpar performance, financial instability, or inadequate management, placing them at risk of financial or operational failure.
<del>human</del> <u>Human</u> subject	<p>An individual from whom an investigator collects data via intervention, interaction, or acquisition of identifiable private information, including organs, tissues, body fluids, or any related graphic or recorded details. Regulations <u>at 45 CFR 46</u> govern <del>the use of human subjects.</del> <u>the use of human subjects.</u></p>
<u>Indian tribe</u>	<p><u>Any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.</u></p> <p><u>See 2 CFR 200.1 Indian Tribe</u></p>
Indian tribal <del>government</del> <u>governme</u> <u>nt</u>	<p>The governing body overseeing an Indian <del>tribe</del> <u>Tribe</u>, group, or community, including Alaska Native villages per the <u>Alaska Native Claims Settlement Act of 1971</u>. This <del>body is recognized by the Secretary of the Interior for access to specific programs and services via the Bureau of Indian Affairs and the Indian Health Service.</del> <u>body is recognized by the Secretary of the Interior for access to specific programs and services via the Bureau of Indian Affairs and the Indian Health Service.</u></p> <p><del>See also 45 CFR § 75.2 Indian tribe.</del></p>

<p><del>indirect</del> <u>Indirect</u> costs</p>	<p>Costs incurred <del>by a recipient for shared purposes and not tied to a specific project or program. They are also referred to as "</del><u>for a common or joint purpose benefitting more than one cost objective and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. For Institutions of Higher Education, the term</u> facilities and administrative <u>cost is often used to refer to indirect costs."</u></p> <p><del>45</del>See <u>2 CFR 200.1 Indirect (Facilities and Administration or F&amp;A) costs costs, 2 CFR 200.414, and 2 CFR 300.414.</u></p>
<p><del>institutional</del> <u>Institution</u> <u>al</u> review board (IRB)</p>	<p>A committee that safeguards the rights and well-being of human subjects in research. The IRB can approve, modify, or disapprove research activities under its jurisdiction.</p>

<del>intangible</del> <u>Intangible</u> property	<p>Property without physical <del>form</del> <u>existence</u>, such as <u>trademarks</u>, copyrights, <u>data (including data licenses)</u>, websites, IP licenses, <u>trade secrets</u>, patents, <del>and other intellectual</del> <u>patent applications</u>, and property <del>rights acquired under awards</del>. It also <del>encompasses</del> <u>such as</u> loans, notes, <del>leases</del> <u>and other debt instruments</u>, <u>lease agreements</u>, stocks, <del>and other ownership</del> instruments. <del>However, of property ownership of either tangible or intangible property, such as intellectual property created, rather than purchased, under awards is excluded.</del> <u>45- software, or software subscriptions or licenses.</u></p> <p><u>See 2 CFR § 75.2200.1 Intangible property.</u></p>
<del>international organization</del> <u>Internati on al Organizati on</u>	An organization with members from multiple countries, representing their interests, regardless of whether its headquarters or activities are located within or outside of the US.
<del>invention</del> <u>Invention</u>	A potentially patentable or protectable discovery or invention made by an awardee during work funded by a contract, grant, or cooperative agreement. The term "subject invention" refers to inventions specifically conceived or first reduced to practice as part of the funded work.
<u>Key</u> <del>key</del> personnel	The PI/PD and other individuals who contribute to the programmatic development or execution of a project in a substantive, measurable way, whether <del>or not</del> they receive salaries or compensation under the award.
<u>Local</u> <del>local government</del> <u>governm e nt</u>	<p><del>A local</del> <u>Any unit of</u> government <del>entity such as</del> <u>within a State, including</u> a county, <u>borough, municipality</u>, city, town, township, <u>parish, local public authority, special district</u>, school district, <del>or intrastate district</del>, council of governments, <del>among others</del>. <u>This includes or any other agency or instrumentality of a multi- regional, or interstate</u> <u>intra-State or local</u> government <del>entities and local public authorities, but excludes institutions of higher education and hospitals.</del></p> <p><u>45 See 2 CFR § 75.2200.1 Local government.</u></p>

<del>matching or cost sharing</del> <u>Matching</u>	<p>The value of non-federal contributions to a federally assisted project, including third-party in-kind donations. These costs must adhere to the same allowability policies as other costs in the approved budget.</p> <p><u>45 CFR § 75.2 Cost sharing or matching</u> <u>See Cost sharing.</u></p>
<del>merit</del> <u>Merit</u> review	<p>An <u>objective process of evaluating Federal award applications in accordance with the written standards of the Federal agency</u>. This review is an unbiased evaluation of discretionary applications by experts in the relevant field. Also known as objective review.</p> <p><u>See also 45 CFR § 75.204 HHS funding 200.205 Federal agency review of merit of proposals.</u></p>

<u>Micro-purchase threshold</u>	<u>The dollar amount at or below which a recipient or subrecipient may purchase property, or services using micro-purchase procedures.</u>  <u>See 2 CFR 200.1 Micro-purchase threshold</u>
<del>monitoring</del> <u>Monitoring</u>	A method of evaluating an award's programmatic and business management performance using data from reports, audits, site visits, and other sources.
<del>non-competing extension</del> <u>Non-discretionary award</u>	An <del>additional timeframe beyond the original period of performance, granted by the awarding agency or recipient (under expanded authority), to finalize project activities.</del> <u>award made by the Federal agency to specific recipients in accordance with statutory, eligibility, and compliance requirements, such that in keeping with specific statutory authority, the Federal agency cannot exercise judgment ("discretion"). A non-discretionary award amount could be specifically determined</u>

<del>non-federal share</del>	<p><u>or by formula.</u></p> <p><del>The portion of allowable project costs not borne by the Federal government.</del><u>See 2 CFR 200.1 Non-discretionary award.</u></p>
<del>notice</del> <u>Notice</u> of funding opportunity (NOFO)	<p><u>A formal announcement of the availability of Federal funding through a financial assistance program from a Federal agency. The notice of funding opportunity provides information on the award, such as who is eligible to apply, the evaluation criteria for selecting a recipient or subrecipient, the required components of an application, and how to submit the application.</u></p> <p><del>An official announcement from the awarding agency that outlines the availability of federal funds for a specific program. This announcement invites applications and provides essential details such as eligibility requirements, evaluation criteria, and guidelines for application preparation and submission.</del><u>See 2 CFR 200.1 Notice of funding opportunity.</u></p>
<del>objective</del> <u>Objective</u> review	<p>See <u>merit review.</u></p>



<del>obligations</del> <u>Obligation</u> <u>s</u>	<p>The value of commitments made by a recipient during a budget period for orders, contracts, subawards, and received goods and services, that will need payment within the current or later budget periods. <u>placed for property and services, contracts and subawards made, and similar transactions that require payment by a recipient or subrecipient under a Federal award that will result in expenditures by a recipient or subrecipient under a Federal award.</u></p> <p><del>45 CFR § 75.2 Obligations</del><u>See 2 CFR 200.1 Financial obligations.</u></p>
<del>outlays or expenditures</del> <u>Participant</u> <u>nt</u>	<p><u>Generally, an individual participating in or attending program activities under a Federal award, such as trainings or conferences, but who is not responsible for implementation of the Federal award. Individuals committing effort to the development or delivery of program activities under a Federal award (such as consultants, project personnel, or staff members of a recipient or subrecipient) are not participants.</u></p> <p><del>The charges made to the federally sponsored project or program. They may be reported on a cash or accrual basis.</del></p> <p><del>45 CFR § 75.2 Expenditures</del><u>See 2 CFR 200.1 Participant.</u></p>
<del>patent</del> <u>Patent</u>	<p>A property right awarded by the federal government that grants the right to exclude others from making, using, or selling the invention for a period of years.</p>
<del>peer</del> <u>Peer</u> review	<p>A <del>method of evaluating the form of</del> merit <u>review</u> of applications based on assessment by individuals of equal scientific or technical expertise (peers). This review ensures that applications meet high scientific or technical standards, as determined by experts in the relevant field.</p>
<del>period of</del> <u>Period of</u> performance	<p>The <del>total time for which support of a project has been programmatically</del><u>interval between the start and end date of a Federal award, which may include one or more budget periods. Identification of the period of performance in the Federal award does not commit the Federal agency to fund the award beyond the currently approved budget period.</u><del>45</del></p> <p><del>See 2 CFR § 75.2</del><u>200.1 Period of performance.</u></p>
<del>pre-award</del> <u>Pre-</u> <u>award</u> costs	<p>Costs incurred before the official start date of an award, <del>expected to be covered by the award but undertaken at the applicant's own risk, given there's no guarantee of reimbursement unless later approved.</del> <u>in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. These costs are only allowable with prior approval of the agency, unless waived by expanded authority.</u></p> <p><del>45</del><u>See 2 CFR § 75.209 200.210 Pre-award costs and 2 CFR 200.458 Pre-award costs.</u></p>

<u>Principal Investigator/Program Director</u>	<u>The individual(s) designated by the recipient to direct the project or program being supported by the award. The PI/PD is responsible and accountable to officials of the recipient organization for the proper conduct of the project, program, or activity.</u>
<del>prior</del> <u>Prior</u> approval	<p><del>Written approval from the awarding agency's CGMO, or their delegate, granted in response to a recipient's request, to incur a specific cost or action requiring such approval. If these costs/actions are detailed in an application, the award's issuance based on that application serves as the authorization. For indirect cost components, prior approval must come from the relevant agency or as per the associated cost principles.</del><u>obtained in advance by an authorized official of a Federal agency of certain costs or programmatic decisions.</u></p> <p><del>45</del><u>See 2 CFR 5-75.2200.1 Prior approval.</u></p>
<del>profit</del> <u>Profit</u>	<u>See fee.</u>
<del>program</del> <u>Program</u> income	<p><del>Income directly produced by a project, program, or activity funded by the award, or earned due to the award.</del></p> <p><u>Gross income earned that is directly generated by a supported activity or earned because of the Federal award during the period of performance. Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees, and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds.</u></p> <p><del>45</del><u>See 2 CFR 5-75.2200.1 Program income.</u></p>
<del>progress</del> <u>Progress</u> report	Regularly submitted reports, typically annually, from the recipient to the <del>awarding</del> agency to evaluate progress and determine funding for the next budget period, excluding the final report.
<del>real</del> <u>Real</u> property	<p>Land, including land improvements, structures, and appurtenances, <del>but not</del><u>and legal interests in land, including fee interest, licenses, rights of way, and easements. Real property does not include</u> movable machinery and equipment.</p> <p><del>45</del><u>See 2 CFR 5-75.2200.1 Real property.</u></p>
<del>recipient</del> <u>Recipient</u>	<p><del>The entity or individual awarded a grant or cooperative agreement by the awarding agency. They are accountable for the funds and the execution of the project or activity. Even if a specific component is mentioned in the NoA, the recipient refers to the complete legal entity.</del></p> <p><u>The entity that receives a Federal award directly from a Federal agency to carry out an activity under a Federal program. The term recipient does not include subrecipients or individuals that are participants or beneficiaries of the award.</u></p> <p><del>45</del><u>See 2 CFR 5-75.2200.1 Recipient.</u></p>
<del>reimbursement</del> <u>Reimb</u> <u>urment</u>	A payment made to a recipient upon its request after it makes cash disbursements.

<u>Renewal award</u>	<u>A Federal award for which the start date is connected with, or closely follows, the end of the expiring Federal award. The start date of a renewal award begins a new and distinct period of performance.</u>  <u>See 2 CFR 200.1 Renewal award</u>
<u>Research</u>	<u>The systematic study directed toward fuller scientific knowledge or understanding of the subject studied. This includes activities involving the training of individuals in research techniques where such activities use the same facilities as other research and development activities and where such activities are not included in the instruction function.</u> <u>See 2 CFR 200.1 Research and Development</u>

<p><del>research</del></p>	<p><del>A comprehensive study aimed at expanding knowledge or addressing a specific need. It involves the application of knowledge to produce materials, devices, systems, or methods, including the design and enhancement of prototypes and processes. Often referred to as "research and development."</del></p> <p><del>45 CFR § 75.2 Research</del></p> <p><del>45 CFR § 75.2 Research and Development (R&amp;D)</del></p>
<p><del>research</del> <u>Research</u> patient care</p>	<p><del>Standard and supplementary</del> <u>Routine and ancillary</u> hospital services given to research participants. The expenses for these services are typically allocated to individual research projects using established research patient care rates <u>or amounts</u>.</p> <p><u>See 2 CFR 300.308 Research Patient Care.</u></p>
<p><u>Research and development</u></p>	<p><u>All basic and applied research activities and all development activities performed by a recipient or subrecipient. "Research" is the systematic study directed toward fuller scientific knowledge or understanding of the subject studied. "Development" is the systematic use of knowledge and understanding gained from research to produce useful materials, devices, systems, or methods, including designing and developing prototypes and processes.</u></p> <p><u>See 2 CFR 200.1 Research and Development</u></p>
<p><del>subaward</del> <u>Subaward</u></p>	<p><del>Financial assistance given as money or property under an award by a recipient to a qualified subrecipient (or by a subrecipient to a lower tier subrecipient). This aid can be provided through any legal agreement, even if termed a contract, but excludes procurement of goods/services or any assistance other than grants and cooperative agreements. Consortium agreements are included.</del></p> <p><del>45 CFR § 75.2 Subaward</del> <u>An award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of an award received by the pass-through entity. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in with 2 CFR 200.331, including an</u></p> <p><u>agreement the pass-through entity considers a contract.</u></p> <p><u>See 2 CFR 200.1 Subaward.</u></p>
<p><del>subrecipient</del> <u>Subrecipient</u> <u>ent</u></p>	<p><del>An entity that receives a subaward from a recipient or another subrecipient</del> <u>pass-through entity</u> under a financial assistance award <del>and is responsible to that recipient or subrecipient for the proper use of the federal funds provided by the subaward.</del> <u>to carry out part of a Federal award. The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other Federal awards directly from a Federal agency.</u></p> <p><del>45</del> <u>See 2 CFR § 75.2 200.1 Subrecipient.</u></p>
<p><del>substantive</del> <u>Substantive</u> <u>e</u> programmatic work</p>	<p>The primary project activities for which award support is provided.</p>

<p><del>supplies</del><u>Supply</u></p>	<p><del>Tangible items that are not classified as equipment, intangible property, or debt instruments. While some items in the "supplies" category might resemble equipment, they don't meet the specific criteria or cost threshold to be categorized as such.</del></p> <p><del>2 CFR § 200.2 Supplies</del><u>All tangible personal property other than those described in the <a href="#">equipment</a></u></p> <p><u>definition. A computing device is a supply if the acquisition cost is below the lesser of the capitalization level established by the recipient or subrecipient for financial statement purposes or \$10,000, regardless of the length of its useful life.</u></p> <p><u>See 2 CFR 200.1 Supply</u></p>
<p><u>Suspending</u> <del>suspending</del>-award activities</p>	<p><u>A temporary halt on a recipient's ability to use award funds until they take</u></p> <p><del>A temporary halt on a recipient's ability to use award funds until they take</del> corrective action as directed by the <del>awarding</del>-agency or until the agency decides to end the award. This definition of "suspension" is distinct from its use in the context of debarment and suspension procedures.</p> <p><del>45 CFR § 75.2 Suspension of award activities</del></p> <p><u>See 2 CFR 200.339(c)</u></p>
<p><del>tangible personal property</del><u>Tangible</u> <del>termination</del><u>personal</u> <u>property</u></p>	<p>Tangible assets including equipment and supplies, excluding intangible property like <del>intellectual property.</del></p> <p><del>The awarding agency's permanent removal of a recipient's right to commit previously granted funds before the initial authority ends, which can include the recipient willingly giving up that right.</del></p> <p><del>45 CFR § 75.2 Termination</del><u>intellectual property.</u></p>
<p><del>total project costs</del></p>	<p><del>The total allowable costs (both direct and indirect) that the recipient incurs to carry out a project supported by the award. This includes costs billed to the award itself and costs that the recipient covers as part of a matching or cost-sharing agreement.</del></p> <p><del>45 CFR § 75.2 Total Costs</del></p>

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<u>Termination</u>	<p>The action a Federal agency takes to discontinue a Federal award, in whole or in part, at any time before the planned end date of the period of performance. Termination does not include discontinuing a Federal award due to a lack of available funds.</p> <p>See 2 CFR 200.1 Termination and 2 CFR 200.340 Termination.</p>
<u>Total costs</u>	<p>The sum of the allowable direct and indirect costs minus any applicable credits. See 2 CFR 200.402 Composition of costs.</p>
<del>unallowable</del> <u>Unallowable</u> cost	<p>A cost specified by law or regulation, federal cost principles, or term and condition of award that may not be reimbursed under a grant or cooperative agreement.</p>
<del>unliquidated</del> <u>Unliquidated</u> financial obligations	<p>Financial obligations incurred by the recipient or subrecipient but not paid (liquidated) for financial reports prepared on a cash basis. For reports prepared on an accrual basis, these are financial obligations incurred by the recipient or subrecipient but for which expenditures have not been recorded.</p> <p>If using a cash basis, the amount of obligations made by the recipient that have yet to be paid. If using an accrual basis, the sum of obligations made by the recipient for which a disbursement or expense hasn't been recorded.</p> <p><del>45 CFR § 75.2 Unliquidated obligations</del> See 2 CFR 200.1 Unliquidated financial obligation.</p>
<del>unobligated</del> <u>Unobligated</u> balance	<p>The amount of <del>the</del> funds authorized by the federal agency under a Federal award that the recipient or subrecipient has not obligated.</p> <p>The amount is calculated by subtracting the total amount of the recipient's or subrecipient's unliquidated financial obligations and expenditures under the Federal award from the total amount of funds the Federal agency or pass-through entity authorized the recipient or subrecipient to obligate. See 2 <del>45</del> CFR <del>§ 75.2</del> 200.1 Unobligated balance.</p>
<del>vertebrate</del> <u>Vertebrate</u> animal	<p>Any live animal having a backbone or spinal column used or intended for use in research, research training, experimentation, biological testing, or related purposes.</p>
<del>withholding</del> <u>Withholding</u> cash payment	<p>The <del>awarding</del> agency, after following necessary steps, limits a recipient's access to funds until they make the needed corrections.</p> <p>See 2 CFR 200.339(a).</p>

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## Appendix C: Post-Award Considerations by Type of Program, Activity, or Recipient

### C.1: Services Provided by Affiliated Organizations

Universities and other organizations (parent organizations) sometimes create affiliated organizations.

The parent organization often provides considerable support services. These include administration, facilities, equipment, accounting, and other services. The affiliated organization includes the costs of these services in its indirect cost proposal.

In some cases, the ~~awarding~~ agency may reimburse these costs. This happens only when the affiliated organization satisfies any of the following:

- It is charged for, and must legally pay for, the costs.
- It is subject to state or local law that sets out how to spend the federal reimbursement and a state or local official approves the expenditures.
- A formal agreement allows the affiliated organization to keep the related federal reimbursement. The parent organization may direct the expenditure of the funds or allow the affiliated organization to decide.

If these conditions don't apply, the ~~awarding~~ agency cannot reimburse the costs. However, the services may be acceptable for cost-sharing purposes.

### C.2: Data Sharing for Research and Demonstration Projects Considerations

#### C.2.1: Expectations

Sharing data and research tools is important to quickly turn research into useful products and knowledge to improve human health. This includes things like cell lines and software. ~~Also sharing~~ Sharing information about demonstration projects helps others use and duplicate projects. ~~If you are an NIH recipient, reminder to please go to the NIH GPS at:~~

~~<https://grants.nih.gov/grants/policy/nihgps/nihgps.pdf>~~

HHS reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so. This also means requiring recipients and subrecipients to make such works available through agency-designated public access repositories. (See 2 CFR 200.315(b))

HHS encourages researchers to share their findings promptly.

If you enter ~~into~~ subawards, including consortium agreements, ~~and~~ you will want access to third-party data and/or research tools, to ensure HHS can also access data and tools, if desired. Recipients should include a provision in the third-party agreement. ~~There may be times the HHS awarding~~

Your agency requires you to do so. They can also access third-party data or tools should provide guidance to you on how to make data available through a variety of ways. Please check the NoA and see 2 CFR 200.315(f).

~~You must also~~When you share copies or samples of materials developed under the award. ~~You, you~~ can charge a small fee for shipping and handling these items. Any income earned from this is considered program income.

If you think you can't meet these expectations, talk to the GMS before getting an award.

### **C.2.2: Timely Release of Research Data and Tools**

Investigators should share their final research data and tools either when their main findings are accepted for publication or when they submit findings to the ~~awarding~~ agency. ~~This ensures timely sharing.~~

### **C.2.3: Protection of Certain Data**

HHS knows data sharing can be complicated due to various rules and laws, including the [HIPAA Privacy Rule, Human Research Protections](#), and others. We must always protect the privacy of project participants and their data. [HHS will work with you to maximize public access to Federally funded research results and data in a manner that protects data providers' confidentiality, privacy, and security. Please check your NoA and ask your GMS or PO for guidance.](#)

For wider use, data must not include any indicators that could reveal the identity of individual participants. Researchers need to ensure that data from human cells or tissues also can't reveal the identity of the original donors.

Researchers can share materials through their lab or organization or submit them to a repository. They should send unique biological data, like DNA sequences, to the appropriate data banks. When sharing unique resources, investigators must provide details about the nature, quality, or characterization of the materials.

### **C.3: Conference Awards**

If you have questions about conference awards or what's allowed under your award, ask your GMS. [Here](#)

~~Here~~ are definitions and details about costs related to conference awards:

- Conference: Events like meetings, retreats, or seminars that share technical information. They must be necessary and reasonable for the award's success. [See 2 CFR 200.432.](#)
- International conference: A meeting open to attendees from at least two countries ~~other than outside of~~ the U.S. ~~or Canada~~. It can be anywhere, even in the U.S. But, if it's outside the U.S. ~~or Canada~~, award funds can't cover general support. They can cover specific parts, like a workshop or panel.
- Domestic conference: A meeting in the U.S. ~~or Canada~~ mainly for attendees from these two countries. Award funds can support these conferences, whether they're domestic or international.

### **Equity in Representation**

~~For HHS-supported meetings, ensure diverse participation. Recipients of HHS financial assistance awards must make sure all those eligible for the HHS-funded project are able to participate and receive the benefits from the project. When administering HHS-funded meetings, programs, activities, projects, assistance, and services, the recipient must make sure no one able to participate is~~

~~discriminated against, to the extent doing so is prohibited by Federal statute. Please see 45 CFR § 75.300 and Advancing Equity at HHS for more information.~~

### **C.3.1: Funding Requirements**

The NoA will include any specific requirements. A change in conference focus is a change in scope and needs prior approval.

### **C.3.2: Acknowledgment of Support and Disclaimer**

All conference materials, like agendas or media promotions, must mention HHS support, whether in whole or in part. Refer to Appendix D for the exact wording of this acknowledgment.

If you're releasing a press statement about activities supported by an HHS award, inform the ~~awarding~~ agency beforehand to coordinate, which may include a review of mate

### **C.3.3: Allowable and Unallowable Costs and Activities**

Please refer to ~~452 CFR part 75, subpart~~ 200 Subpart E, your NOFO/NoA, and the HHS ~~awarding~~ agency.

### **C.3.3.1: Other Cost Considerations**

If you don't have a written travel policy, follow the [Federal Travel Regulation](#). Always adhere to the U.S. foreign travel restrictions in place at the time, which may include restrictions on countries or limits on funds for travel.

When attending a conference:

- Only claim per diem for days you attend and the actual travel time, taking the most direct route.
- Local travel costs can be covered for local attendees only.
- If meals or lodging cost are nominal or free, like within a registration fee, adjust your per diem accordingly.
- Travel costs shouldn't exceed coach fares. Always choose U.S. carriers when possible.

### **C.3.4: Intellectual Property: Publications, Copyright, and Public Disclosure**

If you publish something using HHS funds, you can distribute it for free. If you sell it, the money earned is considered program income and should be reported as directed in your NoA and on the FFR. More details can be found in [the GPS Chapter 3.2.11 \(Program Income](#) ~~section of the GPS Program section After the Award~~[\)](#).

You can seek copyright for publications from an HHS-supported conference unless your award says otherwise. However, HHS still has rights to the materials, as mentioned in the Irrevocable and the Royalty-Free License GPS section After the Award.

## **C.4: Construction and Modernization of Facilities Awards**

### **C.4.1: Applicability and Definitions**

Note that construction and modernization activities must be allowed by law; that law may provide more specifics about allowable construction and modernization activities. However, as a general matter, this section applies to the following HHS award-supported activities:

- Construction: constructing a new building, structure, or facility that provides new space. It also includes installing fixed equipment in such space. It excludes purchasing land and ancillary improvements like parking lots, roads, or fencing. Constructing shell space is not allowed as a construction activity as it does not provide usable space.
- Modernization: altering, renovating, remodeling, improving, expanding, or repairing an existing building. Also includes completing existing shell space. Activities must make the building suitable for the purposes of a particular program. This can include space used for storage or by people. It can range from updating flooring to replacing everything except for the existing frame and foundations. If the main award purpose is modernizing a biomedical research facility, the award can't also support research.
- Alteration and renovation (A&R) activities: These are modernization activities and can be under research awards where the primary purpose of the award is other than construction or modernization.

Refer to the NoA for additional related requirements.

## **C.4.2: Allowable and Unallowable Costs and Activities**

This section outlines costs and activities generally allowable and unallowable under construction awards. ~~(The final decision~~ [on whether a cost is allowable](#) ~~is based on the decision of the HHS awarding agency and the program.)~~

These policies apply to the use of federal funds and cost sharing ~~or matching funds~~. The lists are not all-inclusive. Consult program guidelines and award terms and conditions for specific costs allowable under a program or award.

### **C.4.2.1: Allowable Costs and Activities**

- Acquisition and installation of fixed equipment~~.~~
- Architectural and engineering services~~.~~
- Bid advertising~~.~~
- Bid guarantees and performance and payment bonds as provided in [452 CFR § 75.334](#) ~~200.326~~.
- Contingency funds for unanticipated charges included in the initial cost estimates for construction contracts. Before you receive bids, the budgeted amount can't exceed five percent of expected construction costs. You must reduce it to not more than two percent after you award a construction contract.
- Filing fees for recording the Notice of Federal Interest (NFI)~~.~~
- Force accounts to provide funding for your own construction and maintenance staff used in carrying out modernization activities. These are allowable if you can document that a force account is less expensive than if you were to competitively bid the work. You must substantiate costs with receipts for the materials and certified labor pay records. Use of a force account requires ~~awarding~~ agency prior approval.



- Compliance with the National Historic Preservation Act. This can include:
  - o hiring special consultants to research and document the historic value of proposed performance sites
  - o costs to prepare and present required materials to inform the public and others.
- Incentive costs for contractors consistent with contract type as specified in the solicitation of bids or proposals and in the contract. Incentive costs must be reasonable and documented, including that conditions to earn the incentive were met. Incentive-type contracts may also contain a penalty provision. Other types of bonus payments are not allowable.
- Inspection fees.
- Insurance costs of title insurance, physical-destruction insurance, and liability insurance are generally allowable. Physical destruction and liability insurance are usually treated as F&A costs. However, you can treat it as a direct cost if your established policy does so and you consistently do so. You may charge title insurance, if required, to the award in proportion to the amount of ~~awarding~~ agency participation in the property. See Real Property —Insurance.
- Legal fees related to obtaining a legal opinion about title to a site.

- Relocation expenses.
- Sidewalks necessary for use of facility.
- Site clearance costs are allowable if reflected in the bid.
- Site survey and soil investigation costs.
- NEPA analysis costs to evaluate the environmental effects and produce the Environmental Impact Statement (EIS).
- Pre-award costs for architect and consultant fees needed for planning and design are allowable if the project is later approved and funded.
- Project management costs.
- Threat-risk assessment costs for a site-specific or project-specific assessment of security risk by a qualified professional. The threat-risk assessment identifies and quantifies potential threats, both internal and external to the building, its contents, the personnel working in it, and the ~~general~~ public. The analysis also includes examination and evaluation of the physical aspects of the proposed facility, along with operational issues.

#### **C.4.2.2: Unallowable Costs and Activities**

- Bonus payments other than earned incentive payments to contractors under formal incentive arrangements~~;~~
- Construction of shell space designed for completion at a future date~~;~~
- Consultant fees not related to actual construction~~;~~
- Damage judgment suits~~;~~
- Equipment purchased through a conditional sales contract~~;~~

- Indirect/F&A costs~~;~~
- Fund-raising expenses~~;~~
- Land acquisition~~;~~
- Legal services not related to site acquisition~~;~~
- Movable equipment~~;~~
- Off-site improvements such as parking lots~~;~~

### **C.4.3: Prior-Approval Requirements**

You must get ~~awarding~~ agency prior approval for the following types of project or budget changes:

- Any applicable changes as specified in ~~the~~ [Chapter 3.1](#) (Prior Approvals~~section of the GPS~~).
- Change in the use of the facility. See [Appendix C.4.6](#) (Use of Facility and Disposition~~in this section~~).

You must provide enough details in your approval request to explain why you need the change. Once approved, you can make the changes. For smaller changes to construction contracts, you don't need prior

approval. But keep copies of all changes as part of your award records.

#### **C.4.4: Procurement Requirements**

Construction activity usually is conducted through one or more contracts. All such procurement must use the methods described in 452 CFR ~~§§ 75.327~~ 200.318 through ~~75.335,~~ 2 CFR 200.327 as applicable.

#### **C.4.5: Equal Employment Opportunity, Labor Standards, and Other Contract Requirements**

You must provide equal employment opportunity and labor standards requirements for federally assisted construction and modernization to potential bidders/offerors and include them in the resulting contract. See 452 CFR ~~part 75,~~ 200.327 (incorporating 2 CFR 200 Appendix II (C)) and 41 CFR ~~chapter~~ Subtitle B Chapter 60. The Davis-Bacon Act or the Copeland “Anti- Kickback” Act apply only if specifically required by the program’s authorizing statute. The NoA will show if they apply.

##### **C.4.5.1: Equal Employment Opportunity Requirements**

Construction contracts (and subcontracts) awarded under HHS awards must follow the requirements of 41 CFR 60-1 (implementing EO 11246 and implemented in 41 CFR § 60-1). Recipients must:

- Include the ~~“Equal Opportunity Clause”~~ clause at 41 CFR ~~§~~ 60-1.4(b) in any construction contract under the award. You must direct the contractor to include this clause in any applicable subcontracts.
- Follow solicitation and contract requirements ~~for affirmative action~~ specified in 41 CFR ~~§~~ 60-4 for contracts in specified geographical areas (designated by DOL’s Director of the Office of Federal Contract Compliance Programs) that will exceed \$10,000. ~~These requirements are specified in EO 11246.~~
- Notify the Office of Federal Contract Compliance Programs regional, area, or field office when you expect to award a construction contract over \$10,000.

Under 41 CFR 60-1.8, segregated facilities are not permitted for any contract for construction services that will exceed \$10,000. The recipient must require each prospective contractor to submit a certification that the contractor:

- Maintains all facilities provided to employees in a non-segregated manner.
- Prohibits its employees to perform services at any location, under the contractor's control, that maintains segregated facilities; and
- Obtains a similar certification before awarding any covered subcontract.

#### **C.4.5.2: Labor Standards Requirements**

- Under [EO 13202](#), as amended by [EO 13208](#), you must ensure that bid specifications, project agreements, or other controlling documents for construction services contracts:
  - Ensure that bidders, offerors, contractors, or subcontractors are able and willing to enter ~~into~~ or adhere to agreements with one or more labor organizations on the same or other related construction projects.
- Refrain from discrimination against bidders, offerors, contractors, or subcontractors for initiating, refusing to initiate, or adhering to agreements with one or more labor organizations, on the same or other related construction projects.

~~Under 41 CFR § 60.1.8, segregated facilities are not permitted for any contract for construction services that will exceed \$10,000. The recipient must require each prospective contractor to submit a certification that the contractor:~~

- ~~• Maintains all facilities provided to employees in a non-segregated manner~~
- ~~• Prohibits its employees to perform services at any location, under the contractor's control, that maintains segregated facilities~~
- ~~• Obtains a similar certification before awarding any covered subcontract~~

Awards, contractors, and subcontractors with construction contracts or subcontracts over \$100,000 financed at least in part with a federal award must follow the Contract Work Hours and Safety Standards Act, 40 USC 3701–3708. Among other provisions, the statute covers standards listed below. Consult the statute for proper interpretation and guidance.

- Work hours
- Report of violations and withholding of amounts for unpaid wages and liquidated damages
- Health and safety standards in building trades and construction industry
- Safety programs
- Limitations, variations, tolerances, and exemptions
- Contractor certification or contract clause in acquisition of commercial items not required
- Criminal penalties

### **~~Other Requirements~~**

#### **C.4.5.3: Other Requirements**

##### **C.4.5.3.1: Liquidated Damages**

Invitations for bids must supply a date or timeframe to complete the project for each prime contract. You may include a liquidated damages provision in the contract. It allows you to assess damages when the contractor does not complete the construction or modernization by the specified date. Liquidated damages must be real, justified, and approved by the ~~awarding~~ agency before solicitation. Where damages are assessed, any amounts paid belong to the recipient.

#### **C.4.5.3.2: Disposition of Unclaimed Wages**

If an employee doesn't claim wages from an HHS-supported construction contract, the recipient might need to pay HHS back. Here's the process:

- Check that the contractor tried to find the employee. This might include forwarding mail or contacting their union.
- If the contractor's search fails but seems incomplete, try to find the employee.
- Open an escrow account in the employee's name. Keep it for two years after the contract ends, or longer if local laws say so. Tell the GMS about this account.
- If you pay wages from the account to the employee or their representative, report to the GMS when you close the account.
- If money is still unclaimed after two years, refund the ~~awarding~~ agency based on the award's contribution to those wages.

#### **C.4.6: Use of Facility and Disposition**

Unless a statute or instructions from your ~~awarding~~ agency say otherwise, here's how to manage real property:

- Keep using the property for its intended purpose. Don't sell or encumber the title without approval.
- If you don't need it for the initial purpose, get written approval from the ~~awarding~~ agency to use ~~it for~~ the facility in a similar federally funded project.

- If you no longer need the property, follow the rules in [452 CFR 75.318200.311\(d\)](#). Your options include:
  - [o](#) Keep it and pay the ~~awarding~~ agency their fair share based on their contribution and the property's market value.
  - [o](#) Replace it. If buying new property under the same award, use any sales money to reduce the new property's cost.
  - [o](#) Sell it and pay the ~~awarding~~ agency based on a formula in [452 CFR 75.318200.311\(e\)\(2\)](#).
  - [o](#) Transfer it to the ~~awarding~~ agency or their approved third party. ~~They'll pay~~ [From the sale](#), you [are entitled to](#) your fair share based on your contribution and the property's current market value.

## **C.5: Foreign Organizations, International Organizations, and Domestic Recipients with Foreign Components**

The GPS generally applies to awards [made](#) to foreign organizations and international organizations. You can find the definitions of these terms in Appendix B of the GPS. In this section, we refer to them as foreign awards.

The AOR must contact the GMS if their organization can't follow these requirements. This section includes:



- Exceptions and modifications to GPS requirements for foreign awards
- Highlights of other related policies
- Policies that apply to awards with a foreign component

### **C.5.1: Public Policy Requirements and Objectives**

Requirements in Appendix D apply to foreign awards, unless otherwise noted here, the NoA, or in ~~awarding~~ agency policies. Exceptions include:

- Civil rights: The civil rights requirements do not apply to foreign awards.
- Debarment and suspension: These rules and the certification requirement do not apply to:
  - o foreign governments and foreign ~~recipients~~organizations
  - o public international organizations
  - o entities that are foreign-government-owned or controlled, in whole or in part
  - o All other foreign organizations and international organizations are subject to these rules.
- Drug-Free workplace: The ~~awarding~~ agency may exempt foreign awards from these
  - o requirements. To do so, they must find that the requirements are not consistent with U.S. international obligations or the laws and regulations of a foreign government.
- Environmental requirements: A foreign award isn't subject to environmental requirements that would not otherwise apply to it.

### **C.5.2: Funding and Payment**

These policies apply:

- All application budgets, fund requests, and financial reports must be in U.S. dollars.
- If exchange rates change, extra costs might be covered, depending on the **awarding** agency's available funds.
- You only need prior approval for rate changes if they lead to needing more federal funds or if they will reduce project scope significantly.
- Review local currency gains to determine if you will need additional federal funding before the award ends.
- Adjustments for currency increases may be allowable only when you provide the **awarding** agency with adequate source documentation from a commonly used source in effect at the time you made the expense.

### **C.5.3: Allowable and Unallowable Costs**

The cost principles that apply to foreign organizations depend on the type of organization. See [Cost Principles](#). There are some exceptions:

- Major A&R are unallowable under foreign awards and domestic awards with foreign components, except where allowed by the governing statute and as indicated in the NoA.
- Minor A&R are generally allowable on awards made to foreign organizations or to a foreign component of a domestic award, unless prohibited by the governing statute or implementing program regulations. You may include and justify minor A&R costs in the detailed application budget. Rebudgeting to accommodate minor A&R requires prior approval.
- F&A Costs under foreign awards, including foreign recipients with a domestic component, are at a fixed rate of eight percent of modified total direct costs. These are direct costs minus tuition and related fees, equipment, and subawards ~~in excess of~~ more than \$25,000. See 452 CFR 75.414(c)(1)(ii) 300.414(b). These funds are to support the costs of compliance with federal requirements.
  - 2 CFR 300.414(c) allows the World Health Organization and American University, Beirut to use their negotiated indirect cost rates.
- Capital expenses (facilities) are not allowable, except where allowed by the governing statute and as indicated in the NoA. The ~~awarding~~ agency will not support the acquisition cost or provide for depreciation.
- Equipment is an allowable direct cost.
- ~~Patient~~ Research patient care costs are provided only in exceptional circumstances or where allowed by the ~~statue~~ statute setting up the award program. See 2 CFR 300.308.
- Travel Visas (including short-term) are generally allowable:
  - As a direct cost as part of recruiting costs if the institution has an ~~employee-employer~~ employee- employer relationship with the individual
  - When identified in specific NOFOs
  - If within the scope of an approved research project

#### **C.5.4: Administrative Requirements**

Expanded authorities generally apply to foreign awards. Review the NoA to determine the specific award requirements. See ~~the GPS Chapter 3.1~~ (Prior Approvals and Expanded Authority sections ~~of the GPS. These requirements~~). [Requirements for foreign awards](#) also apply to subawards to foreign entities under financial assistance arrangements, rather than acquisition of goods or services.

If you make a subaward to a foreign entity, to comply with audit requirements, you must include oversight methods. These may include reviewing reports, on-site reviews, or alternatives to a single audit, if one will not be available during the period of the subaward.

#### **C.6: Federal Institutions and Payments to or on Behalf of Federal Employees Under Awards**

Most policies contained in the GPS apply to awards made to federal institutions. This section includes specific exceptions and modifications of general GPS requirements for federal recipients. It also highlights other related policies.

(See 2 CFR 300.219 for the regulatory modifications for federal agency recipients).

### **C.6.1: Eligibility**

Specific eligibility is in each NOFO. An ~~awarding~~ agency may not issue an award to any component of its own organization.

Public Health Service (PHS) organizational segments, other than IHS hospitals, may only receive award support under exceptional circumstances ~~only~~. Such circumstances may include when the work cannot be supported within the mission of the PHS agency and cannot be performed elsewhere.

~~The~~ Regardless of where the work is performed, the federal agency or department is the official applicant, ~~regardless of where within it the work is to be performed~~. A federal institution must ensure that its own authorizing legislation allows it to receive awards and to be able to comply with the award terms and conditions.

A document that assures both the ~~assumption of~~ responsibility and authority to receive an award must ~~accompany~~ be included with each new and competing continuation application. The assurance must be signed by the head of the responsible federal department or independent agency or a designee who reports directly to the department or agency head. This assurance is in addition to those made by the AOR's signature on the face page of the application. The assurance requirement does not apply to ~~VAMCs,~~ Veterans Administration hospitals, Bureau of Prisons' (Department of Justice) hospitals, IHS hospitals, or other PHS organizational segments.

## **C.7: For-Profit Organizations**

### **General**

### **C.7.1: General**

Terms and conditions for for-profit organizations vary from standard ones. Also, terms and conditions for SBIR and STTR programs vary from those usually applied to for-profit organizations.

### **C.7.2: Cost Principles**

Usual cost principles (2 CFR 200 Subpart E) do not specifically apply to for-profit organizations. As a result, use:

- For for-profit organizations: FAR, [48 CFR § 31.2](#).
- For private hospitals: [452 CFR part 75, appendix 300 Appendix IX](#).

### **C.7.3: Allowable and Unallowable Costs**

#### **C.7.3.1: Allowable Costs**

- Indirect costs
- Travel that does not exceed costs established by the [Federal Travel Regulation](#) (FTR).

#### **C.7.3.2: Unallowable Costs**

- Independent research and development costs, as provided in [452 CFR § 75.476 300.477](#).
- Profits or fees, except for awards under the SBIR and STTR programs and funds paid to a contractor for routine goods or services. [See 2 CFR 300.218](#).

Consult the GMS for questions on costs.

### **C.7.4: Administrative Requirements**

For-profit organizations generally are subject to the same administrative requirements as non-profit organizations, including those relating to personal property title and management.

- Equipment: For-profit groups must track equipment. You can't use award-funded equipment to compete unfairly by offering paid services. Any fees charged for using the equipment count as program income and you must report it on the FFR.
- Intellectual property: All for-profit groups, regardless of size, follow the intellectual property rules in [37 CFR § 401](#). For-profit organizations have different invention reporting rules than non-profits. For-profit organizations can assign invention rights to others without agency approval, but they must still report each invention. The federal government will keep information about federally supported inventions confidential, as allowed by law.
- Program income: See [Program Income](#).
- ~~Operating~~[Expanded](#) authorities: Standard award terms apply to for-profit organizations. However, some ~~policies do~~[awards will](#) not allow automatic carryover of unobligated fund balances. The NoA specifies the disposition of the reported unobligated balance.
- Audit: Requirements for non-federal audits of for-profit organizations are in ~~452 CFR § 75.501~~[300.218\(d\)](#). See also [2 CFR 200.501\(i\) \(exempting for-profit organizations from the audit requires in 2 CFR 200 Subpart F\)](#). For-profit organizations are subject to requirements for non-federal audits. See [GPS Chapter 4.3.2 \(Audit Requirements\)](#).
- Labor distribution requirements: Salary and wage amounts charged to awards for personal services must:
  - Be based on an adequate labor distribution system that distributes payroll costs in line with generally accepted practices of like organizations.
  - Align to industry standards.

- Track time spent on award activities. The time and-effort reporting system used must:
- Be for both professional and other staff
- Reflect daily reporting
- Track time by individual projects and indirect activities
- Record both hours worked, and hours absent
- Enable the AOR to meet the requirement to certify time entries at least every pay period-
- The GMS must approve any alternative system.

## **C.8: Small Business Innovation Research and Small Business Technology Transfer Programs**

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs have three ~~stages~~phases. Some projects might not be eligible for all three. [See the Small Business Administration's Policy Directive for full detailed SBIR/STTR policies.](#)



### **C.8.1: SBIR/STTR Phased Awards**

#### **C.8.1.1: Phase I**

Before providing Phase II support, this phase assesses:

- The technical merit and feasibility of proposed research or R&D
- The quality of the applicant's performance

#### **C.8.1.2: Phase II**

This phase advances efforts started in Phase I. These policies apply:

- Funding is based on the results of Phase I and the scientific and technical merit and commercial potential of the Phase II application.
- ~~Only~~Usually, only Phase I recipients can apply for Phase II funding.
- You can only submit Phase II applications before a Phase I award if using the ~~Fast-Track~~Fast-Track application process (see below).
- You must submit ~~non-Fast-Track~~standard (not Fast-Track) Phase II applications within the first six receipt dates after the end of your Phase I budget period. This is typically two years.

#### **C.8.1.3: Phase III**

The SBIR and STTR programs do not fund Phase III. This phase is for the SBC to work to commercialize the results of the research or R&D done in Phases I and II. In some cases, a federal agency may:

- Use non-SBIR and STTR funds to continue the work.
- Contract for items for federal use.

### **C.8.2: SBIR and STTR**

#### **C.8.2.1: STTR**

The STTR program focuses on teaming a Small Business Concern (SBC) with a non-profit research body for a project that might be turned into a product.

The program requires:

- The SBC collaborates with a single non-profit research institution.
- The SBC must do at least 40% of the research. A domestic non-profit organization does at least 30%. This rule is the same for both Phase I and Phase II.
- Eligible research partners include universities, non-profit hospitals, other non-profits research organizations, and federally funded Research and Development Centers.
- The award goes to the SBC. It disperses funds to the research institution.
- The PI must spend at least 10% of their time on the STTR project.

#### **C.8.2.2: SBIR**

The SBIR program requires that SBC employ the PI at least half-time at the time of award and during the project.

### **C.8.3: Fast-Track Process**

The Fast-Track process speeds up decisions and funding for SBIR and STTR Phase II applications. Policies include:

- To be eligible, the project must be scientifically meritorious with a high potential for commercialization.
- Not every agency lets SBCs use Fast-Track. Talk to the agency first before applying.
- If you aren't approved for Fast-Track, your application might go through the regular review.
- With Fast-Track, Phase I and Phase II applications are handled together and usually get one overall score.

For more details, check the SBIR and STTR NOFOs.

### **C.8.4: Place of Performance and Sources of Materials**

All project activities for Phase I and Phase II of SBIR and STTR must be done in the United States. Using a foreign site for research is rare and needs a solid scientific reason. An example includes testing specific patient groups only available abroad. You must attempt to get alternate funding for the part of the work to be done abroad.

If you must buy materials from another country, you must have a good reason and clearly explain it. Approval of such a waiver is rare. The ~~awarding~~ agency reviews each request individually. If you'll need to do this, talk to the GMS before you apply.

GMSs decide waiver requests. The NoA will clearly state if it is approved.

### **C.8.5: Change in Organization Status & Change of Recipient Institution Actions**

The ~~awarding~~ agency makes eligibility decisions at the initial award time.

A later event like a merger or successor-in-interest could alter the organization's status. If the change

makes the organization ineligible for the SBIR or STTR program:

- Any current awards can still proceed unless the small business concern makes a material misstatement that the agency decides poses a risk to national security; or there is a change in ownership, change to entity structure, or other substantial change in circumstances of the small business concern that the Federal agency decides poses a risk to national security.
- After that, the organization will not qualify for new SBIR or STTR awards.

If an SBIR or STTR award needs to be transferred to a different institution or organization, this new entity must also fulfill the eligibility requirements of the SBIR or STTR program.

Contact the ~~awarding~~ agency to discuss options when considering a move to a new organization.

**C.8.6: Minimum Level of Effort**

Congress requires minimum levels of effort for these programs.

SBIR

required levels of effort:

Program and Phase:	SBC level of effort:	Aggregate payments to others may not exceed:
SBIR Phase I	<del>67</del> 66.67%	<del>33</del> 33.33%
SBIR Phase II	50%	50%

STTR minimum levels of effort:

Program and Phase:	SBC minimum level of effort:	Single, non-profit research institution minimum LOE:
STTR Phase I	40%	30%
STTR Phase II	40%	30%

Policies include:

- Waivers are not allowed.
- The basis for establishing the percentage of work to be done by each participant is the entire cost (including direct, indirect costs, and fee) related to each party. However, if described and justified under the “Consortium/Contractual Arrangements” section of the application, a different basis might be used.

**C.8.7: Multiple ~~Program Director or~~ Principal Investigator or Program Director Applications and Awards**

Team science efforts may use a multiple program director or principal investigator (Multi ~~PD~~/PI/PD) option. The following policies apply:

- The SBC is always the applicant or recipient organization. Other participants are subcontractors.
- Each ~~PD or~~ PI or PD must commit at least 1.2 calendar months (10% effort) to the project.
- SBIR Phase I and II projects: The contact ~~PD or~~ PI or PD must meet the primary employment

requirement. Other ~~PDs or~~ PIs or PDs do not have to meet the requirement.

- STTR Phase I and II projects: The PI listed must have a formal appointment with, or commitment to, the SBC. This must be an official relationship but does not require pay.
- Phase IIB Multi ~~PD/PI~~/PD competing renewal applications: If previously supported through a single ~~PD/PI~~/PD award, the new application must state the changes in the project's management that led to the proposed Multi ~~PD/PI~~/PD model.

## **C.8.8: Public Policy Requirements**

Requirements in Appendix D: Administrative and National Policy Requirements apply, unless otherwise noted here or in ~~awarding~~ agency policies.

- Disclosure of financial conflicts of interest does not apply to Phase I of the SBIR and STTR programs. [See 42 CFR 50.602.](#)
- Under an SBIR or STTR award, the SBC should purchase only American-made equipment or products when possible.

## **C.8.9: Allowable Costs and Fees**

### **C.8.9.1: Program Levels (Total Costs)**

The [SBA SBIR and STTR Policy Directive](#) provides program levels for SBIR and STTR programs based on statutory guidelines. The directives allow ~~awarding~~ agencies to exceed these levels up to 50% over the guideline when the proposed budget and requested period of support are justified and scientifically appropriate for the proposed research.

In some cases, Phase II SBIR or STTR recipients may apply for Phase IIB competing renewal awards. These are available for projects that require extraordinary time and effort for R&D. Only those SBCs awarded a Phase II may apply for the Phase IIB award.

Applicants must request an appropriate level [of funding](#) in the competing application. The ~~awarding~~ agency will not adjust it after submission.

### **C.8.9.2: Profit or Fee**

SBCs can earn a reasonable profit or fee under Phase I and II of the SBIR and STTR programs.

- This profit or fee must be in the application budget.
- The profit or fee isn't considered a cost for determining allowable use, program income accountability, or setting audit thresholds.
- The SBC can use the profit or fee for any purpose, including investment into the awarded project.
- The intent is to provide a reasonable profit consistent with normal profit margins for for-profit organizations for R&D work. Typically, the profit or fee will not surpass seven percent of the total project costs for each phase.
- The profit or fee should be drawn from PMS in proportion to the drawdown of funds for direct and indirect costs.

- The profit or fee is exclusively for the SBC that receives the award. However, in line with regular commercial practices, the SBC can pay a profit or fee to a contractor that provides routine goods or services under the award.



**C.8.9.3: Indirect Costs**

If the applicant SBC has ~~a currently~~an effective indirect cost rate with a federal agency, the rate should be used when calculating proposed indirect costs for an application. The rates must be adjusted for ~~in~~independent R&D expenses, which are not allowable under HHS awards.

If that applicant does not have an approved indirect cost rate, one can be proposed in the application. See below for specific requirements for each phase. If awarded at a rate, indirect costs cannot exceed the awarded rate unless the SBC negotiates an indirect cost rate with a federal agency. The ~~awarding~~ agency will not negotiate indirect cost rates for Phase I awards.

If you do not have an effective negotiated indirect cost rate, you may propose estimated indirect costs at a rate not to exceed 40 percent of the total direct costs. You can charge only actual indirect costs to projects.

**Phase II**

If you do not have an effective negotiated indirect cost rate, you may propose an estimated indirect rate in the application.

If the requested rate is 40 percent of total direct costs or less, you do not need to provide further justification. You can charge only actual indirect costs to projects.

If you choose to negotiate an indirect cost rate greater than 40%, DFAS is the appropriate agency. Upon request, provide DFAS with an indirect cost proposal and supporting financial data for your most recently completed fiscal year. If you do not have financial data for the most recently completed fiscal year, submit a proposal showing estimated rates with supporting documentation.

**C.8.10: Administrative Requirements****C.8.10.1: Market Research**

HHS will not support market research, including studies of the literature that lead to a new or expanded statement of work.

No SBIR or STTR funds, direct or indirect, can be used to support commercialization.

For SBIR and STTR programs, market research is the systematic gathering, editing, recording, computing, and analyzing of data relating to the sale and distribution of the research subject. It includes research on:

- The size of potential markets and potential sales volume
- Identifying consumers most apt to purchase the products
- The advertising media most likely to stimulate their purchases

Market research does not include activities that include a public survey to determine the research subject's impact on the behavior of individuals.

**C.8.10.2: Intellectual Property**

***Intellectual Property***

The recipient keeps rights to data and software created with award funding. However, the federal government has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use the material and to authorize others to do so for Federal purposes.

For SBIR and STTR awards, unlike other commercial awards, such data cannot be released outside the Federal government without the recipient's permission for a period of 20 years from completion of the project.

**C.8.10.3: Data Rights**

Section 9 of the Small Business Act, as amended ([15 USC 638](#)), allows SBC's under an SBIR or STTR award to retain their data rights for at least ~~four~~20 years. The SBIR/STTR Policy Directive applies the following data rights:

- The Act allows small business concerns (SBCs) to keep the rights to data they create while working on an SBIR/STTR award. This helps encourage SBCs to participate in Federally funded research and supports them in commercializing their technology. The Federal Government will have access to this data to assess the projects and use the results, but it cannot use the data in ways that would hurt the SBC's rights or economic opportunities. The SBIR/STTR data rights provisions and definitions ensure that the Federal Government effectively protects properly marked SBIR/STTR data during the SBIR/STTR protection period just as well as it protects data developed at private expense.
- Federal agencies that participate in SBIR/STTR awards must make sure that SBC recipients keep appropriate proprietary rights to data generated while working on an award. In general, this means the Federal Government will have rights to that data during the protection period, except for certain types of data that are not subject to such data rights restrictions.
- SBIR/STTR data rights apply to all SBIR/STTR awards, including subcontracts, for all phases of the program (I, II, or III) as defined by the SBA Policy Directive from May 2, 2019. The rights for Phase III awards are the same as those for Phases I and II.
- SBIR/STTR data rights restrict the Federal Government's use and release of properly marked SBIR/STTR data only during the SBIR/STTR protection period. After the protection period, the Federal Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for government purposes. At this time, the Federal Government is relieved of disclosure prohibitions related to such government purposes and assumes no liability for unauthorized use of these data by third parties. The Federal Government receives unlimited rights in Form, Fit, and Function Data, OMIT Data, and all unmarked SBIR/STTR data.

***SBIR/STTR Data Rights - Main Elements:***

- An SBC retains title and ownership of all SBIR/STTR data it develops or generates in the performance of an SBIR/STTR award. The SBC retains all rights in SBIR/STTR data that are not granted to the Government in accordance with the SBA Policy Directive. These rights of the SBC do not expire.
- The Government receives SBIR/STTR data rights during the SBIR/STTR protection period on all appropriately marked SBIR/STTR data. These rights enable the Federal Government to use SBIR/STTR data in limited ways within the Government, such as for project evaluation purposes.

These rights are intended to prohibit use and disclosure of SBIR/STTR data that may undermine the SBC's future commercialization of the associated technology. The Government receives unlimited rights in Form, Fit, and Function Data, OMIT Data, and all unmarked SBIR/STTR data.

- After the SBIR/STTR protection period has expired, the Federal Government may use, and authorize others to use on its behalf, for government purposes, SBIR/STTR data that was subject to SBIR/STTR data rights during the SBIR/STTR protection period.
- The SBIR/STTR protection period begins with award of an SBIR/STTR funding agreement. It ends twenty years, or longer at the discretion of the participating agency, from the date of award of an SBIR/STTR award (either Phase I, Phase II, or ~~Federally-funded~~ Federally funded SBIR/STTR Phase III) unless the agency and the SBC negotiate for some other protection period for the SBIR/STTR data ~~subsequent to~~ after the award.
- Any SBIR/STTR data that is delivered must be marked with the appropriate SBIR/STTR data rights legend or notice to receive the protections given to SBIR/STTR data pursuant to SBIR/STTR data rights. The Government is not liable for the access, use, modification, reproduction, release, performance, display, disclosure, or distribution of SBIR/STTR data that is not appropriately marked in line with agency procedures. If SBIR/STTR data is delivered without the required legend or notice, the SBIR/STTR recipient may, within 6 months of such delivery (or a longer period approved by the agency for good cause shown), request to have an omitted SBIR/STTR data legend or notice, as applicable, placed on qualifying data. If SBIR/STTR data is delivered with an incorrect or nonconforming legend or notice, the agency may correct or permit correction at the recipient's expense.

#### *Negotiated Rights:*

- An agency must not, in any way, make issuance of an SBIR/STTR award conditional on the SBC negotiating or consenting to negotiate a special license or other agreement regarding SBIR/STTR data. The negotiation of any such specially negotiated license agreements shall be permitted only after award.
- After issuance of an SBIR/STTR award, the SBC may enter into a written agreement with the agency to modify the license rights that would otherwise be granted to the agency during the SBIR/STTR protection period. However, the agreement must be

- entered ~~into~~ voluntarily, by mutual agreement of the SBC and agency. The agreement cannot be a condition for additional work under the funding agreement or the exercise of options. The agreement must be entered into only after the SBIR/STTR award, which must include an appropriate SBIR/STTR data rights clause, has been signed. Any such specially negotiated license must be in writing under a separate agreement after the SBIR/STTR funding agreement is signed. A decision by the recipient to relinquish, transfer, or modify in any way its rights in SBIR/STTR data must be made without pressure or coercion by the agency or any other party. Any provision in a competitive non-SBIR or SBIR solicitation that would have the effect of diminishing SBIR/STTR data rights shall have no effect on the provision of SBIR/STTR data rights in a resulting Phase I, Phase II, or Phase III award.
- To ensure that SBIR/STTR recipients receive the applicable data rights, all SBIR and STTR NOFOs and resulting funding agreements must fully implement all ~~of~~ the policies, procedures, and requirements set forth in the SBA Policy Directive in appropriate provisions and clauses

incorporated into the SBIR/STTR NOFOs and awards. The SBA Policy Directive provides a sample SBIR/STTR data rights clause containing the key elements that must be reflected in the clause used in Federal Agency solicitations. SBA will report to the Congress any attempt or action by an agency, that it is aware of, to condition an SBIR or STTR award on the negotiation of lesser data rights or to exclude the appropriate data rights clause from the award.

- The STTR program requires that the SBC and the single, non-profit research institution execute an agreement allocating between the parties' intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization of the subject research.

SBIR and STTR recipients are covered by [35 USC ~~200-212~~ Chapter 18](#) and [37 CFR ~~§ 401~~](#) with respect to inventions and patents.

#### **C.8.10.4: Data Sharing**

For SBIR Phase II funding over \$500,000 in a year in direct costs, applicants must follow the GPS on data sharing, unless the Small Business Act conflicts. If the data is proprietary or sensitive, the SBC should explain it in the application. Whether or not the award meets the threshold for data sharing under [Intellectual Property](#), HHS won't share data outside the federal government without recipient approval for a period of 20 years from completion of the project.

For more information, please see [NIH's SBIR/STTR information page](#).

### **C.9: Research Awards**

#### **C.9.1: Human Subjects in Research**

The regulation for all HHS awards involving human subjects research is [45 CFR ~~part 46~~](#), Basic HHS Policy for Protection of Human Subjects. Subpart A is also known as the Common Rule. These regulations

implement Section 491(a) of the Public Health Service (PHS) Act. These regulations apply to both domestic and foreign organizations.

The Office for Human Research Protections (OHRP), Office of the Assistant Secretary for Health, is the office with HHS-wide responsibility for research involving human subjects under this policy.

All NOFOs will clearly state:

- The parameters of human subject use
- The information and assurances required from you prior award

There is a single version of the Federal-wide Assurance (FWA) form and Terms of Assurance for domestic and international institutions.

Recipients, whether domestic or international, must safeguard the rights and welfare of human subjects in HHS-conducted or -supported activities ([45 CFR § 46.101\(a\)](#) and [45 CFR § 46.103\(a\)](#)).

Recipients must ensure that subrecipients follow these requirements, as applicable. Recipients must facilitate the process for obtaining prior approval for subrecipients if not approved in the award.

#### **C.9.1.1: Exemptions**

Some human subject research is exempt from the requirements of the HHS regulations.

The categories of research that qualify for exemption are found at [45 CFR ~~§~~ 46.104\(d\)\(1\)-\(8\)](#). HHS has final authority to decide if a particular research study supported by HHS is exempt from the HHS regulations. OHRP is the only component of HHS with the delegated authority to interpret and enforce the regulatory requirements in [45 CFR ~~§~~ 46.101\(c\)](#) regarding whether a particular activity is regulated by [45 CFR ~~part~~ 46](#). Contact OHRP for questions.

### **C.9.1.2: Policies for Non-Exempt Human Subjects Research**

The recipient, including any collaborating organization under a subaward, must:

- Hold or obtain an OHRP-approved FWA ([45 CFR ~~§~~ 46.103\(a\)](#)).
- Certify to the ~~awarding~~ agency, within the time frame specified, that the research has been reviewed and approved by an Institutional Review Board (IRB) designated in the FWA ([45 CFR ~~§~~ 46.103\(d\)](#)).

The [OHRP website](#) contains a listing of those organizations with OHRP-approved assurances.

The ~~awarding~~ agency must make sure an applicant and any collaborating organizations have the required assurance and certification in place, before:

- Making an award unless there is a specific condition in the NoA restricting expenditures for this purpose.
- You initiate human subjects research, and the ~~awarding~~ agency removes any related NoA specific condition.
  - Approving a post-award change in scope that will result in human subjects research.

The specific award condition [restricting human subjects research](#) must indicate that:



- o You may not draw down funds, obligate or expend federal funds, or claim required cost sharing ~~or matching~~ costs for research involving human subjects at any site engaged in research until you meet all requirements.
- o Failure to comply within the stated time may result in full or partial termination of the award.

The prohibition on expenditures may extend to the whole project if that activity can't be isolated.

### **C.9.2: Research Involving Animals and Their Welfare**

Requirements for using live, vertebrate animals apply to all PHS agencies and other research-related awards. PHS agencies include AHRQ, CDC, FDA, HRSA, IHS, NIH, OASH, and SAMHSA. These requirements apply to recipients, subrecipients, and contractors, whether foreign or domestic.

The requirements:

- Are included in the [Public Health Service Policy on Humane Care and Use of Laboratory Animals](#) (PHS Policy).
- Incorporate the [U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training](#).
- Require the recipient to maintain an animal care and use program based on the [Guide for the Care and Use of Laboratory Animals](#).

- Require compliance, as applicable, with the [Animal Welfare Act](#) and other federal statutes and regulations relating to animals.

You must establish appropriate policies and procedures to ensure the humane care and use of animals, and you are ultimately responsible for compliance with the PHS Policy.

You can get information about animal welfare topics from the [Office of Laboratory Animal Welfare](#) (OLAW), Office of Extramural Research, National Institutes of Health.

Before engaging in any HHS award-supported research using animals, applicants must:

- Have a current Animal Welfare Assurance approved by OLAW. The list of organizations with approved assurances is on the OLAW website for both [domestic institutions](#) and [foreign institutions](#).
- Verify, as part of the application or before award, current Institutional Animal Care and Use Committee (IACUC) approval of the animal activities. PHS Policy requires that IACUC approval must have happened within three years of the period of performance start date for new or renewal awards and at least every three years after that.
- Comply with the ~~awarding~~ agency's internal IACUC requirements if a cooperative agreement.

If you do not have a current Animal Welfare Assurance (or made alternative arrangements, like an inter-institutional assurance acceptable to OLAW) or ~~has~~[have](#) not provided the required verification by the

time an award is to be made, the ~~awarding~~ agency will notify the PO and the applicant. The ~~awarding~~ agency may:

- Delay the award until the recipient and all performance sites are operating in accordance with approved Animal Welfare Assurances and the organization has provided verification of IACUC approval of those sections of the application that involve use of animals.
- Include a specific condition in the NoA restricting expenditures.

The award condition must state that:

- You may not draw down funds, obligate or expend federal funds, or claim required • cost sharing ~~or matching~~ costs for research involving animals at any site engaged in research until you meet all requirements.
- Failure to comply within the stated time may result in full or partial termination of the award.
- The prohibition on expenditures may extend to the whole project if that activity can't be isolated.

Before approving changes involving animal research after award, the ~~awarding~~ agency needs to confirm that there's a proper Animal Welfare Assurance with OLAW. They also need verification from the IACUC.

#### **C.9.2.1: Reporting**

Reporting requirements under the PHS Policy include an annual report to OLAW describing:

- Any updates in your animal care program as mentioned in the Assurance.
- Changes in IACUC membership
- The dates when the IACUC reviewed your program and facilities.

Lastly, the IACUC must quickly report any serious issues or breaches in policies, guidelines, or any suspensions through the official who signed the Assurance.

**C.9.2.2: Foreign Applicants**

Foreign applicant organizations applying for awards for activities involving animals are required to comply with PHS Policy or provide evidence that acceptable standards for the humane care and use of animals will be met.

This includes providing OLAW with an Animal Welfare Assurance for Foreign Institutions, which includes:

- Institutional assurance and certification of compliance with the applicable laws, regulations, and policies of the jurisdiction in which the research will be conducted
- A commitment to follow the [International Guiding Principles for Biomedical Research Involving Animals](#).

**C.9.2.3: Awards to Individuals**

No award to an individual will be made unless that individual is affiliated with an assured organization that accepts responsibility for compliance with the PHS ~~Policy~~[animal welfare policy](#).

## Appendix D: HHS Administrative and National Policy Requirements

~~Please go to the following page to see updated HHS requirements:~~

~~<https://www.hhs.gov/sites/default/files/hhs-administrative-national-policy-requirements.pdf>~~

### ~~Additional Information on Uniform~~ **D.1: HHS Administrative and National Policy Requirements**

The awards process is governed by laws and policies – both federal government-wide and HHS- specific. Below are common general administrative and national policy requirements.

#### **D.1.1: Sources of Laws and Policies**

There are four general sources of laws and policies that may apply to awards. This Appendix focuses on federal government-wide and HHS-wide sources.

The first two sources are more fully explained in this Appendix:

- **Federal Government-Wide Sources.** The U.S. Constitution, statutes, regulations, executive orders, and statements of policy.
- **HHS-Wide Sources.** Statutes, regulations, statements of policy, and award terms and conditions.

You will find information about the next two sources in the terms and conditions of award, some of which may be mentioned in the NOFO:

- **Agency-Wide Sources.** Agencies may set policies for their awards through regulations, award terms and conditions, and other means.
- **Program-Wide Sources.** Individual funding programs may have their own specific policies. You may find these in the NOFO or the award terms and conditions. They may be based on the authorizing statute, implementing program regulations, or program guidance.

#### **D.1.2: Locations of Laws and Policies**

You can find laws and policies in a variety of places. This Appendix compiles many of the laws and policies that may apply to awards, but it is not intended to be an exhaustive list or to reproduce the full text. Readers are encouraged to review the original sources for more information.

Your award terms and conditions may incorporate specific statutes, regulations, or policies by reference. However, the GPS is a term and condition that applies to every discretionary award. The following two terms and conditions apply to all HHS awards.

~~As stated in the information linked above, the~~ • The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for ~~HHS~~Federal Awards (452 CFR § 75.200) apply to all and HHS awards, unless specifically exempted by 45Requirements (2 CFR § 75.101(d) or (e)300).

- In SAM.gov, you agree to the Financial Assistance General Certifications and Representations. All federal financial assistance awards must adhere to all federal laws, executive orders, regulations, and public policies governing financial assistance. A few of them are specifically mentioned in the Certifications and Representations in SAM.gov. This Appendix addresses those in the tables below. They are marked with “see the Financial Assistance General Certifications and Representations.”

As of October 1, 2024, the following provisions from 2 CFR part 200 are effective for all new HHS awards or monetary actions (new, continuation, and supplements):

**2 CFR § 200.1 Definitions:** Modified Total Direct Cost (MTDC), which increases the exclusion threshold of subawards from \$25,000 to \$50,000 for modified total direct costs, definition of Equipment, which increases the threshold for determining equipment from \$5,000 to \$10,000, definition of Supplies, which increases the threshold for determining supplies from \$5,000 to \$10,000;

**2 CFR § 200.313 (e) Equipment:** Increases from \$5,000 to \$10,000 the value of equipment that at the end of the grant period “may be retained, sold, or otherwise disposed of with no further responsibility to the Federal agency” (see 2 CFR section 200.313(e)(1)). The provision also clarifies that Indian Tribes may use their own procedures for use, management, and disposal of equipment. If they do not have procedures, then they must follow the ordinary guidance.

**2 CFR § 200.314(a) Unused Supplies:** Increases from \$5,000 to \$10,000 the value of unused supplies that recipients of Federal funds are required to sell at the end of the grant award period as well as clarifying that this amount is the total amount of remaining unused supplies, not just like items (see 2 CFR section 200.314).

**2 CFR § 200.320 Micro-purchase Threshold:** Increases the micro-purchase threshold to \$50,000 (see 2 CFR 200.320).<sup>1</sup>

**2 CFR § 200.333 Fixed Amount Awards Subawards:** Increases from \$250,000 to \$500,000 the amount of fixed amount subawards that a recipient may provide with prior written approval from the Federal agency (see 2 CFR section 200.333).

**2 CFR § 200.344 Closeout:** Increases the time period for recipients to submit final reports in support of closeout of the award from 90 to 120 days (see 2 CFR 200.344).<sup>2</sup>

**2 CFR § 200.414(f) De Minimis Indirect Rate:** Increases from 10% to 15% the rate that recipients of Federal funds may use for indirect costs without negotiating an alternative rate with the relevant

<sup>1</sup>This provision has already been adopted by HHS by operation of law, Pub. L. No. 115-91, and OMB Memorandum 18-18. It is included to be clear that this regulation is in force for HHS.

<sup>2</sup>This provision has already been adopted by HHS. See 88 FR 63591 (Sept. 15, 2023). It is included to be clear that this regulation is in force for HHS.

### **D.1.3: Applicability of Laws and Policies**

Many laws and policies apply to all HHS awards. But some apply only to awards with certain types of activities or recipients. For example, some may apply only to construction awards, conference awards, or research awards. Additionally, most apply to subrecipients. Some of the exceptions are noted in the tables below.

#### **D.1.3.1: General Order of Precedence**

The general order of precedence determines the order in which laws and policies may apply. The table includes examples of the types of laws and policies at each level; it is not an exhaustive list.

<u>Level of Policy</u>	<u>Examples (Note: This list is not exhaustive.)</u>
<u>1. US Constitution</u>	<u>The foundation of all laws, rules, and policies.</u>
<u>2. Statutes</u>	<u>Program Authorizations and Appropriations</u> <u>Federal Grant and Cooperative Agreement Act of 1977</u> <u>Federal Funding Accountability and Transparency Act (FFATA) of 2006</u> <u>Digital Accountability and Transparency Act (DATA) of 2014</u> <u>Grant Reporting Efficiency and Agreements Transparency (GREAT) Act of 2019</u>
<u>3. Regulations</u>	<u>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards: 2 CFR 200 (government-wide) and 2 CFR 300 (HHS-wide)</u> <u>42 CFR and 45 CFR series regulations (Program-specific regulations)</u>
<u>4. Policies, Program Guidance, and Award-Specific Requirements</u>	<u>Executive Orders (applies to agencies and recipients to the extent incorporated into agency- and program-specific guidance)</u> <u>OMB Memos (applies to agencies and recipients to the extent incorporated to agency- and program-specific guidance)</u> <u>HHS Grants Policy Statement (GPS)</u> <u>HHS Grants Policy Administration Manual (GPAM) Agency-Specific Grants Policies (apply to agencies)</u> <u>Agency- and program-specific guidance related to one or more award programs such as Notices of Funding Opportunity (NOFO), FAQs, and other program announcements, e.g., agency guidance, manuals, “Dear Colleague” letters. For non-discretionary awards these might include state or Tribal plans, public assistance, or statewide cost allocation plans.</u> <u>Requirements specific to an individual award or class of awards, such as a requirement to perform activities described in the recipient’s application</u>



## **D.2: Uniform Administrative Requirements**

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards (2 CFR 200) apply to all HHS awards, unless specifically exempted by 2 CFR 200.101(e) and (f).

While all of 2 CFR 200 and 300 apply to grants and cooperative agreements, following are some key requirements:

### **D.2.1: Subrecipients**

The uniform requirements also address subrecipient responsibilities. See 2 CFR 200.101(b)-(c), 2 CFR 200.331-333.

Recipients and subrecipients must follow the award terms and conditions. In general, the primary recipient must:

- Apply terms and conditions to their subawards.
- Evaluate the risk of subawards and use specific conditions, if needed.
- Monitor subaward compliance.
- Verify that the subrecipient meets audit requirements.
- Remedy noncompliance.
- Ensure that their subrecipients have a Unique Entity Identifier and maintain a SAM.gov registration.

### **D.2.2: Termination**

HHS may terminate awards under certain circumstances. See 2 CFR 200.340.

## **D.3: Financial Assistance General Certifications and Representations**

When you registered in SAM.gov, your authorized organization representative agreed to the Financial Assistance General Certifications and Representations. These are binding on every award.

You can review these certifications and representations in Appendix I of the SAM.gov Entity Registration Checklist. You can find the checklist on SAM.gov Get Started with Registration and the Unique Entity ID page.

While the Financial Assistance General Certifications and Representations expressly identify certain requirements, they also require compliance with all applicable laws and policies. Those expressly identified are marked with “See General Certifications and Representations.”

See the General Certifications and Representations (Appendix E).

## **D.4: Laws and Policies**

This section outlines various laws and policies that may apply to HHS awards (including recipients and subrecipients), but it is not intended to be an exhaustive list.

The following laws and policies apply to all recipients and subrecipients, with any exceptions noted within the guidance or notes.

**D.4.1: Administrative and Activities**

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u>Abortions</u> <u>Related to limitations on use of federal funds for abortions.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Sections 506 and 507	Agreed to in General Certifications and Representations (Appendix E).
<u>Cybersecurity requirements</u> <u>Related to creating a cybersecurity plan.</u>	M-24-03: Advancing Climate Resilience through Climate Smart Infrastructure Investments and Implementation Guidance for the Disaster Resiliency Planning Act	See Supplemental Information (Appendix D-F) for more information. NIST Cybersecurity Framework
<u>Debt Collection</u> <u>Related to how the federal government collects debt.</u>	Statute: 31 USC 3701 Regulation: 31 CFR 285	
<u>Health Information Technology Interoperability</u> <u>Related to conditions when implementing, acquiring, or upgrading health IT.</u>	Health Information Technology for Economic and Clinical Health (HITECH) Act is Pub. L. No. 111-5, 123 Stat. 226 (Feb. 17, 2009)	See Supplemental Information (Appendix D-F) for more information.
<u>Needle Exchange</u> <u>Related to prohibition on using award funds to give out sterile needles to inject illegal drugs, with some exceptions.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Sections 526	See General Certifications and Representations (Appendix E)
<u>Publications and Acknowledgement of Support</u> <u>Related to recipients acknowledging HHS funding in public documents related to the awarded project.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 505	See Supplemental Information (Appendix D-F) for requirements and example.
<u>Reporting Subaward and Executive Compensation Information</u> <u>Related to requirements to report certain information on subawards and executive salaries.</u>	Statute: Federal Funding Accountability and Transparency Act of 2006 (FFATA), 31 USC 6101 note Regulation: 2 CFR 170	See General Certifications and Representations (Appendix E)
<u>Salary Rate Limitation – Federal Executive Level II.</u> <u>Related to restrictions to not use award funds to pay a salary over the Federal Executive Level II rate for that year.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title II, Section 202	For 2025, the amount is \$225,700. See General Certifications and Representations (Appendix E)
<del>Federal HHS proposed to increase 2 CFR section 200.414 (a) Note that this does not apply to HHS Training or Foreign awards, Federal HHS proposed to increase 2 CFR section 200.501 (a) Note that this does not apply to HHS Training or Foreign awards,</del>		
<del><b>2 CFR § 200.501 Single Audit:</b> Increase from \$750,000 to \$1,000,000 the level at which a recipient of Federal funds is required to conduct a single audit or a program specific audit (see 2 CFR section 200.501).</del>		
<u>SAM.gov and Universal Entity Identifier (UEI)</u>	Regulation: 2 CFR 25	See the award term at 2 2 CFR 25, Appendix A. See General Certifications

<a href="#">Related to the requirement to register and</a>		<a href="#">and Representations</a>
		<a href="#">(Appendix F)</a>

<b>Use of Logos</b>  <u>Related to prior approval for using an HHS or agency logo.</u>	<u>Statute: 42 USC 1320b-10.</u>	<u>See Supplemental</u>
		<u>Information (Appendix <sup>D.5)</sup> for more.</u>

## **D.4.2: Civil Rights and Other Protections**

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Civil Rights Assurance of Compliance</u></b> <u>Related to requirements to certify compliance with civil rights laws.</u>	<u>Required by: Condition of Award; 45 CFR 84.5; 86.4; 91.33; 92.4</u>	<u>See HHS Form 690,</u>
		<u>Assurance of Compliance, and HHS Grant Policy Statement.</u>
<b><u>Copeland Anti-Kickback Act</u></b> <u>Related to requiring contractors to follow 29 CFR 3 under awards that include alteration, and renovation and weekly compliance statements on the wages paid to each employee.</u>	<u>Statutes: 18 USC 874 and 40 USC 3145</u>	<u>Applies to awards with construction or alterations.</u>
	<u>Regulation: 48 CFR 22.403-2</u>	
<b><u>Davis-Bacon Wage Protections</u></b> <u>Related to using contractors that pay prevailing wages and benefits under awards funding construction, alteration, or repair.</u>	<u>Statute: 40 USC 3141, et seq.</u>	<u>Applies to awards with construction or alterations.</u>
<b><u>Discrimination Based on Age</u></b> <u>Related to protecting people from discrimination based on age.</u>	<u>Statutes: Age Discrimination Act of 1975, 42 USC 6101, et seq.; Section 1557 of the Affordable Care Act, 42 USC 18116</u>	<u>See General Certifications and Representations (Appendix E)</u>
	<u>Regulations: 45 CFR 91</u>	
<b><u>Discrimination Based on Disabilities</u></b> <u>Related to protecting people from discrimination based on a disability.</u>	<u>Statutes: Section 504 of the Rehabilitation Act, 29 USC 794; (for state and local government recipients; Section 1557 of the Affordable Care Act; 42 USC 18116</u>	<u>See General Certifications and Representations (Appendix E)</u>
	<u>Regulations: 45 CFR 84; 45 CFR 92</u>	
<b><u>Discrimination Based on Race, Color, and National Origin</u></b> <u>Related to protecting people from discrimination on the basis of race, color, or national origin.</u>	<u>Statutes: Title VI of the Civil Rights Act, 42 2000d; Section 1557 of the Affordable Care Act; 42 USC 18116</u>	<u>See General Certifications and Representations (Appendix E)</u>
	<u>Regulations: 45 CFR 80; 45 CFR 92</u>	

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<b><u>Discrimination Based on Religion and Religious Conscience</u></b> <u>Related to protecting people from discrimination based on their religious beliefs.</u>	Statutes: Church Amendments, 42 USC 300a-7; Coates-Snowe Amendment, 42 USC 238n; and the Weldon Amendment, Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 507(d)(1) Guidance: HHS Office for Civil Rights, Conscience and Religious Freedom for situations where this protection applies.	See General Certifications and Representations (Appendix E)
<b><u>Discrimination Based on Sex</u></b> <u>Related to protecting people from discrimination based on sex.</u>	Statutes: Title IX of the Education Amendments of 1972, as amended; 20 USC 1681 et seq.; Section 1557 of the Affordable Care Act, 42 USC 18116 Regulations: 45 CFR 86; 45 CFR 92 See other sex discrimination guidance and requirements at HHS Office for Civil Rights, Laws and Regulations Enforced by OCR. See also Sex-Based Harassment.	See General Certifications and Representations (Appendix E) (Title IX)
<b><u>Drug-Free Workplace</u></b> <u>Related to maintaining a drug-free workplace and notifying the agency if an employee is convicted of violating a criminal drug law. Failure to follow these requirements may be cause for debarment.</u>	Statute: Drug-Free Workplace Act, 41 USC 8101-8106 Regulation: 2 CFR 182, subpart B	See the award term at 2 CFR 382.400. See General Certifications and Representations (Appendix E)
<b><u>Earthquake Hazards Reduction</u></b> <u>Related to requirements to use earthquake-resistant design when constructing new buildings.</u>	Statute: 42 USC 7701, et seq. Directive: Executive Order 13717	Applies to new construction.
<b><u>Fair Housing</u></b> <u>Related to protecting people from discrimination in housing.</u>	Statute: Title VIII of the Civil Rights Act of 1968, 42 USC 3601, et seq.	See General Certifications and Representations (Appendix E)
<b><u>Faith-Based Organizations</u></b> <u>Related to protections for faith-based organizations to apply and receive federal funds without discrimination or interference with their mission. Describes limitations on the use of federal funds.</u>	Statute: 42 USC 2000bb, et seq. Directives: Executive Orders 13279, 13559, and 13831. Regulation: 28 CFR 38, appendix A and 45 CFR 87, appendix A	
<b><u>Hotel and Motel Fire Safety</u></b> <u>Related to fire safety activities for hotels and motels used for venues.</u>	Statute: 15 USC 2201, et seq	Applies to awards using hotels or motels as venues.

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<b><u>Limited English Proficiency</u></b> <u>Related to steps to improve access to persons with limited English proficiency.</u>	<u>Required by: Title VI of the Civil Rights Act, 42 USC 2000d; Section 1557 of the Affordable Care Act, 42 USC 18116</u>	<u>See also LEP.gov</u>  <u>Does not apply to subcontractors.</u>
	<u>Regulations: 45 CFR 80; 45 CFR 92</u>	
	<u>Guidance: Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons</u>	
<b><u>Military Recruiting and Higher Education</u></b> <u>Related to limitations on funding institutions of higher education that do not allow Reserve Officer Training Corps (ROTC) on campus and allow military recruiting on campus.</u>	<u>Statute: 10 USC 983</u>	<u>Applies to subrecipients where HHS must approve them.</u>  <u>Does not apply to subcontractors.</u>
<b><u>Pro-Children Act – Non-Smoking</u></b> <u>Related to prohibiting smoking in indoor facilities where award-funded projects serve children. Not following this law can bring civil monetary penalties.</u>	<u>Statute: Pro-Children Act of 2001, 20 USC 7181 through 7184</u>	
<b><u>Privacy Act</u></b> <u>Related to protecting information about a person, unless the person gives permission or under the exceptions at 5 USC 552a(b).</u>	<u>Statute: 5 USC 552a</u>	
<b><u>Seat Belts</u></b> <u>Related to encouragement to adopt and enforce seat belt policies.</u>	<u>Directive: Executive Order 13043</u>	<u>Does not apply to subrecipients or subcontractors.</u>
<b><u>Texting While Driving</u></b> <u>Related to limitations on texting while driving when federal funds pay for vehicles or cell phones.</u>	<u>Directive: Executive Order 13513</u>	<u>Does not apply to subcontractors.</u>
<b><u>Trafficking Victims Protection</u></b> <u>Related to bans providing funds to organizations involved in human trafficking.</u>	<u>Statute: Trafficking Victims Protection Act (TVPA) of 2000, as amended, 22 USC 7104(g).</u>	<u>See General Certifications and Representations (Appendix E)</u>
	<u>Regulation: 2 CFR 175, Award Term for Trafficking in Persons.</u>	
<b><u>Whistleblower Protections</u></b> <u>Related to protecting employees from reprisal for disclosing information about violations.</u>	<u>Statute: Protection from Reprisal of Disclosure of Certain Information, 41 USC 4712.</u>	<u>See General Certifications and Representations (Appendix E)</u>

**D.4.3: Environmental**

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Clean Air and Water</u></b> <u>Related to the requirement to follow certain environmental laws.</u>	Statute: Clean Air Act of 1970, 42 USC 7401 et seq.	See Summary of the Clean Air Act.
	Statute: Clean Water Act of 1972, 33 USC 1351 et seq.	See Summary of the Clean Water Act.
<b><u>Climate Resiliency and Energy and Emission Reductions</u></b> <u>Relating to the purchase or construction of real property and major renovation projects.</u>		<u>Additional Guidance to Advance Climate Resilience and Reduce Energy and Emission</u> <u>See more in Supplemental Information (Appendix D.5)</u>
<b><u>Earthquake Hazards Reduction</u></b> <u>Related to using earthquake-resistant design when constructing new buildings.</u>	Statute: 42 USC 7701, et seq. Directive: Executive Order 13717	Applies to new construction.
<b><u>Flood Insurance</u></b> <u>Related to requirements for flood insurance in areas with special flood hazards.</u>	Statute: 42 USC 4001, et seq.	Applies to awards that acquire or construct buildings. Does not apply to subrecipient or subcontractors.
<b><u>National Environmental Policy Act</u></b> <u>Related to policies to conduct reviews to assess and mitigate environmental impact.</u>	Statute: National Environmental Policy Act of 1969, as amended, 42 USC 4321 et seq.	Applies to construction or major renovation activities.
	Guidance: HHS General Administration Manual (GAM), Part 20.50, National Environmental Policy Act Review for the NEPA process.	Does not apply to subcontractors. See more in Supplemental Information (Appendix D.5)
		<u>See General Certifications and Representations (Appendix E)</u>
<b><u>National Historic Preservation Act (NHPA)</u></b> <u>Related to requirements to consider the effect of potential awards on historic properties.</u>	Statute: National Historic Preservation Act (NHPA) of 1996, as amended, 54 USC 300101 et seq.	Applies to awards buying, constructing, or altering real property.
	Regulation: 26 CFR 800	See resources and a summary of the process in Supplemental Information (Appendix D.5)
<b><u>Resource Conservation and Recovery</u></b> <u>Relating to requirements to give preference to the purchase of recycled products.</u>	Statute: 42 USC 6962 Regulation: 40 CFR 247	Applies to state and local institutions of higher education, hospitals, and non-profit organizations.
	(See list of relevant recycled products at 40 CFR 247, subpart B.)	



<u><b>Safe Drinking Water Act</b></u> <u>Related to ensuring that public water systems provide safe and reliable drinking water.</u>	Statute: 42 USC 300f, et seq. Regulation: 40 CFR 141	<u>Applies to public water systems.</u>

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u><b>Uniform Relocation Assistance</b></u> <u>Related to real estate activities that may displace people.</u>	Statute: 42 USC 4601 et seq.	<u>Does not apply to subcontractors.</u>
	Regulation: 45 CFR 15 and 49 CFR 24	
<u><b>Wetland Protection</b></u> <u>Related to requirements to protect wetlands.</u>	Directives: Executive Orders 11988 and 11990	
	Regulation: 18 CFR 725	

#### **D.4.4: Lobbying, Advocacy, & Political Activity**

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u><b>Anti-Lobbying, Publicity, and Propaganda</b></u> <u>Related to restrictions against lobbying, publicity, or propaganda using federal funds. Applicants must certify their compliance.</u>	Statutes: Further Consolidated Act, 2024, Division B, Title VII, Section 715, 718, and 731; Consolidated Appropriations Act, 2024, Division E, Title IV, Section 401; Further Consolidated Appropriations Act, 2024, Division D, Title V, Sections 503, 505, and 522	
	Regulation: 2 CFR 200.450	
<u><b>Controlled Substances</b></u> <u>Related to restrictions on activities that promote the legalization of any drug or other substance.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 509	<u>See General Certifications and Representations (Appendix E)</u>
<u><b>Gun Control</b></u> <u>Related to requirements about not using federal funds to advocate for or promote gun control.</u>	Statute: Further Consolidated Appropriations Act, 2024, Division D, Title II, Section 210; Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 503(c)	<u>See General Certifications and Representations (Appendix E)</u>
<u><b>Hatch Act</b></u> <u>Related to restrictions on political activity and running for public office.</u>	Statute: 5 USC 1502 (For exceptions see 5 USC 1501) Regulation: 5 CFR 151	<u>Does not apply to subcontractors.</u>
<u><b>Lobbying Disclosure Act of 1995</b></u> <u>Related to requirements to disclose lobbying activities.</u>	Statute: 2 USC 1601 et seq	<u>You can find the Disclosure of Lobbying Activities (SF-LLL) at Grants.gov/Forms.</u>
		<u>See General Certifications and Representations (Appendix E)</u>

### D.4.5: Patents, Inventions, and Data

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u>Federal government rights</u> <u>Related to the federal government's rights to use inventions.</u>	<u>Statute: 35 USC 202-203 Regulation: 37 part 401</u>	<u>Applies to research projects with inventions.</u>
<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u>Federal Information Security Management Act (FISMA)</u> <u>Related to policies when recipients collect, store, process or send data on behalf of HHS.</u>	<u>44 USC 3551 et seq.</u>	
<u>Retaining Rights</u> <u>Related to the rights to new inventions developed from funded research.</u>	<u>Statute: Bayh-Dole Act of 1980, 35 USC 200 et seq. and the related EO 12591</u>	<u>Applies to research projects with inventions.</u>

### D.4.6: Procurement

<u>Laws and Policies</u>	<u>Source</u>	<u>Notes</u>
<u>American-Manufactured Goods</u> <u>Related to required preferences for certain products and materials made in the US. Waivers may be possible.</u>	<u>Statute: Buy American Act, 41 USC 8301 et seq.</u> <u>Statute: Build America, Buy America Act, Public Law 117-58, Title IX, Subtitle A</u> <u>Regulations: 2 CFR 184 (BABA) and 48 CFR 25 (Buy American Act)</u> <u>Guidance: M-22-11 and M-24-02</u>	
<u>Fly America Act</u> <u>Related to requirements for travelers to use certified U.S. airlines for award-funded air travel.</u>	<u>Statute: 49 USC 40118</u> <u>Regulation: 41 CFR 301-10.131 - 143</u>	
<u>Prohibition on certain telecommunications and video surveillance services or equipment</u> <u>Related to restrictions on using federal funds for telecommunications equipment produced by certain companies.</u>	<u>Statute: 41 USC 3901 et seq.</u> <u>Regulation: 2 CFR 200.216</u>	
<u>U.S. Flag Vessels</u> <u>Related to using U.S. owned and operated vessels to ship goods and supplies bought with award funds.</u>	<u>Statute: 46 USC 55305</u> <u>Regulation: 46 CFR part 381.7</u>	

### D.4.7: Professional Integrity

<u>Source</u>	<u>Notes</u>
<p><u>Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 520</u></p>	<p><u>See General Certifications and Representations (Appendix E)</u></p>

<u> Laws and Policies</u>	<u> Source</u>	<u> Notes</u>
<b><u>Civil Actions for False Claims Act</u></b> <u>Related to the federal government’s ability to take civil actions on violations of the false claims act.</u>	<b><u>Statute: 31 USC 3730</u></b> 	<b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>Debarment and Suspension</u></b> <u>Related to not providing federal funds to excluded parties.</u>	<b><u>Regulation: 2 CFR 180</u></b> 	<b><u>Does not apply to subcontractors unless the contract is over \$25,000.</u></b> <b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>False Claims Act</u></b> <u>Related to liability on persons and companies who defraud government programs</u>	<b><u>Statutes: 31 USC 3729, 18 USC 287, and 18 USC 1001</u></b> 	<b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>False or Misleading Information</u></b> <u>Related to requirements to not use federal funds to share deliberately false or misleading information.</u>	<b><u>Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 515(b)</u></b> 	<b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>Mandatory Disclosure</u></b> <u>Related to requirements to disclose certain violations of federal criminal law.</u>	<b><u>Statute: 41 USC 2313</u></b> <b><u>Regulation: 2 CFR 200.113 and 2 CFR 200 Appendix XII</u></b> 	
<b><u>Program Fraud and Civil Remedies Act</u></b> <u>Related to administrative hearings for certain false claims actions.</u>	<b><u>Statute: 31 USC 3801 et seq</u></b> 	<b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>Recent Felony Convictions</u></b> <u>Related to eligibility for awards for corporations with felony criminal convictions in the past 24 months.</u>	<b><u>Statute: Further Consolidated Appropriations Act, 2024, Division B, Title VII, Section 745</u></b> 	<b><u>See General Certifications and Representations (Appendix E)</u></b> 
<b><u>Recipient Integrity and Performance</u></b> <u>Related to information reported to SAM.gov Responsibility/Qualification.</u>	<b><u>Regulation: 2 CFR 200.211(c)(1)(iii) and 2 CFR 200 Appendix XII</u></b> 	

<b><u>Unpaid Federal Tax Liability</u></b> <u>Related to eligibility corporations with an unpaid tax liability, with some conditions.</u>	<b><u>Statute: Further Consolidated Appropriations Act, 2024, Division B, Title VII, Section 744</u></b>	<b><u>See General Certifications and Representations (Appendix E)</u></b>
		<b><u>Does not apply to subrecipients or subcontractors.</u></b>

#### **D.4.8: Research Awards**

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Animal Welfare</u></b> <u>Related to requirements when live animals are involved in award-funded programs and</u>	<b><u>Statutes: 7 USC 2131-2159 and 42 USC 289d</u></b> <b><u>Regulation: 9 CFR subchapter A</u></b>	<b><u>See Supplemental Information (Appendix D.5)</u></b>
	<b><u>Policy: PHS Policy for the Humane Care and Use of Laboratory Animals</u></b>	

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Certificates of Confidentiality</u></b> <u>Related to protecting subjects from compelled disclosure of identifying information and addressing voluntary disclosure.</u>	<b><u>Statute: 42 USC 241(d)</u></b>	
<b><u>Clinical Investigations of FDA-Regulated Products</u></b> <u>Related to clinical investigations regulated by FDA.</u>	<b><u>Statutes: 21 USC 355(i), 360b(j), and 360j(g).</u></b> <b><u>Regulations: 21 CFR 50, 54, 56, 21.312, 511, and 812.</u></b>	<b><u>Applies to clinical investigations regulated by FDA.</u></b>
<b><u>Cloning</u></b> <u>Related to ban on cloning human beings.</u>	<b><u>Directive: Cloning of Human Beings Ban (Presidential memorandum, March 4, 1997)</u></b>	
<b><u>Confidentiality: Substance Use Disorder Patient Records</u></b> <u>Related to requirements for substance use disorder patient confidentiality.</u>	<b><u>Statute: 42 USC 290dd-2</u></b>	
<b><u>Federal Technology Transfer</u></b> <u>Related to access to federal government laboratories by non-federal organizations</u>	<b><u>Statute: 15 USC 3701 et seq</u></b>	
<b><u>Financial Conflicts of Interest</u></b> <u>Related to a process to identify and address financial conflicts.</u>	<b><u>Regulation: 42 CFR 50, Subpart F</u></b>	<b><u>Applies to research awards.</u></b>  <b><u>Does not apply to subcontracts, Phase I of the SBIR/STTR programs, and federal institutions.</u></b>

<b><u>HIPAA</u></b> <u>Related to the Privacy Rule standards that address the use and disclosure of individuals' health information (known as "protected health information") by entities subject to the Privacy Rule.</u>	<u>Statute: Health Insurance Portability and Accountability Act</u> <u>P.L.104-191</u>	<u>Applies to HIPAA covered entities.</u>
<b><u>Human Embryos</u></b> <u>Related to policies for the destruction or creation of human embryos.</u>	<u>Statute: Further Consolidated Appropriations Act, 2024, Division D, Title V, Section 508(a)</u>	<u>See General Certifications and Representations (Appendix E)</u>
<b><u>Human Subjects Protection</u></b> <u>Related to requirements for research involving human subjects.</u>	<u>Statutes: 42 US. 289 and 42 USC 300v-1(b)</u> <u>Regulation: 45 CFR 46</u>	<u>See Supplemental Information (Appendix D.5)</u>
<b><u>Recombinant DNA and Human Gene Transfer</u></b> <u>Related to NIH guidelines for such research.</u>	<u>Guidance: NIH Guidelines</u>	

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Research Involving Potential Procurement of Synthetic DNA and RNA</u></b> <u>Related to scientific research awards that have the potential to procure synthetic nucleic acids or benchtop nucleic acid synthesis equipment.</u>	<u>EO 14110 Section 4.4(b) (referencing The Office of Science and Technology Policy</u>	<u>See Supplemental Information (Appendix D.5)</u>
	<u>(OSTP) Framework for Nucleic Acid Synthesis Screening)</u>	
<b><u>Research Misconduct</u></b> <u>Related to Public Health Service Policies on Research Misconduct</u>	<u>Regulation: 42 CFR 93</u>	
<b><u>Research on Human Fetal Tissue</u></b> <u>Related to the use of human fetal tissue in research.</u>	<u>Statute: 42 USC 289g-1 and g-2 Regulation: 45 CFR 46.206</u>	

**D.4.9: Other**

<b><u>Laws and Policies</u></b>	<b><u>Source</u></b>	<b><u>Notes</u></b>
<b><u>Freedom of Information Act (FOIA)</u></b> FOIA establishes a ‘strong presumption in favor of disclosure of requested information.	Statute: 5 USC 552	
<b><u>Intergovernmental Personnel Act</u></b> Provides for the temporary assignment of personnel between the federal government and state and local governments, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations	Statute: 5 USC 3371 et seq Regulation: 5 CFR part 334	
<b><u>Paperwork Reduction Act</u></b> Minimizes the paperwork burden resulting from the collection of information by or for the federal government	Statute: 44 USC 3501, et seq	
<b><u>Public Health Security and Bioterrorism</u></b> Requires the biennial review and republication of the HHS list of select agents and toxins.	Statute: 42 USC 262a	
<b><u>Standards of Conduct</u></b> To assure HHS is conducted effectively, objectively, and without improper influence or the appearance of improper influence, sets standards for employees and special Government employees	Regulation: 45 CFR 73	

**D.5: Supplemental Information****D.5.1: Administrative and Activities****D.5.1.1: Cybersecurity requirements**

You must create a cybersecurity plan if your project involves both of the following conditions:

- You have ongoing access to HHS information or technology systems.
- You handle personal identifiable information (PII) or personal health information (PHI) from HHS.

You must base the plan on the NIST Cybersecurity Framework. Your plan should include the following steps:

Identify:

- List all assets and accounts with access to HHS systems or PII/PHI.

Protect:

- Limit access to only those who need it for award activities.
- Ensure all staff complete annual cybersecurity and privacy training. Free training is available at 405(d): Knowledge on Demand (hhs.gov).
- Use multi-factor authentication for all users accessing HHS systems.
- Regularly backup and test sensitive data.

Detect:

- Install antivirus or anti-malware software on all devices connected to HHS systems.

Respond:

- Create an incident response plan. See Incident-Response-Plan-Basics\_508c.pdf (cisa.gov) for guidance.
- Have procedures to report cybersecurity incidents to HHS within 48 hours. A cybersecurity incident is:
  - Any unplanned interruption or reduction of quality, or
  - An event that could actually or potentially jeopardize confidentiality, integrity, or availability of the system and its information.

Recover:

- Investigate and fix security gaps after any incident.

**D.5.1.2: Health information technology interoperability**

Pursuant to the HITECH Act and HHS policy, if you receive an award, you must agree to the following conditions when implementing, acquiring, or upgrading health IT and the required standards support a related activity. These conditions also apply to all subrecipients.

- For activities by all recipients. Use only health IT that meets the standards and specifications in 45 CFR 170, subpart B.
- For activities by eligible clinicians in ambulatory settings or hospitals. Use only health IT certified by the ONC Health IT Certification Program for activities by eligible clinicians under Sections 4101, 4102, and 4201 of the HITECH Act.

If 45 CFR 170, subpart B standards cannot apply to the activity, we encourage you to:

- Use health IT that meets non-proprietary standards.
- Follow specifications from consensus-based standards development organizations.

- [Consider standards identified in the ONC Interoperability Standards Advisory.](#)



#### **D.5.1.3. Use of Logos**

Recipients must have prior written approval from the GMO before using an HHS or agency logo. Using a logo without approval may lead to a financial penalty.

#### **D.5.1.4. Publications and Acknowledgement of Support**

Recipients must acknowledge HHS funding in public documents related to the awarded project. Acknowledgements must include:

- Name of agency and HHS
- Amount of federal funding
- Percentage of federal funding to total costs
- Disclaimer of HHS endorsement or agreement. Example of statement for public documents:

The [agency], Department of Health and Human Services provided financial support for this [project / publication / website / etc.]. The award provided XX% of total costs and totaled \$XX. The contents are those of the author. They may not reflect the policies of the Department of Health and Human Services or the U.S. government.

Contact the GMO if you need to revise the contents of the acknowledgement statement. Also contact the GMO to coordinate all media releases.

Recipients must include this statement in materials for funded conferences:

“The [Agency] made this conference possible [in part] through [award number]. Views expressed by speakers, moderators, and in writing may not reflect the policies of the Department of Health and Human Services. Mentions of trade names, commercial practices, or organizations do not imply endorsement by the U.S. Government.”

#### **D.1.5.5. National Environmental Protection Act**

To comply with NEPA for its award-supported activities, HHS must review the environmental aspects of awards that include construction or major renovation activities before award, unless a specific condition is placed on the award. If, because of a post-award change, an agency determines NEPA applies to an award, the NEPA process must be satisfactorily completed before drawdown of funds for the activity. Consult the agency’s NEPA contact for specific information on what must be addressed.

#### **D.1.5.6. National Historic Preservation Act (NHPA)**

If the recipient takes actions on real property that are not in compliance with historic preservation requirements, the agency may have a basis to take an enforcement action and recoup some or all its funding.

For questions on NHPA, contact Real Property Policy and Strategy, Program Support Center (PSC), Assistant Secretary for Administration (ASA).

The HHS implementation process is detailed in Chapter 9 of the HHS Facilities Program Manual.

The table below summarizes the process used to determine if a proposed activity will have any effects on historic properties. It provides a general outline of the NHPA section 106 process, but not all details.

Therefore, this attachment must be used with, not instead of, the NHPA requirements.

<u>Activity</u>	<u>Guidance</u>
<p><u>1. Determine if any portion of the project may include activities that affect an historic property. Such activities typically include acquisition, construction, or alteration of real property.</u></p> <p><u>Note: The applicant is primarily responsible for this determination. If the agency has concerns about the applicant's determination, they will address them with the applicant and consult the State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO), as applicable.</u></p>	<p><u>If the answer is "yes," then continue with the process. If the answer is "no," then the process may stop.</u></p>
<p><u>2. Identify the appropriate SHPO or THPO with jurisdiction in the area where the project will be performed.</u></p>	<p><u>Find an SHPO. Find a THPO.</u></p>
<p><u>3. In consultation with the SHPO or THPO, identify whether any National Register historic properties (or those eligible for inclusion) are within the project's Area of Potential Effect (APE).</u></p> <p><u>The APE can include areas outside of the project's boundaries. For example, constructing a building may not affect an historic resource on the property itself, but may affect the view or setting of a nearby historic resource.</u></p>	<p><u>If the answer is "yes," then continue with the process.</u></p> <p><u>If the answer is "no," and the SHPO or THPO agrees, then the process may stop.</u></p>
<p><u>4. Determine if the undertaking will result in any adverse effects on an historic property.</u></p>	<p><u>If the answer is "yes," then continue with the process.</u></p> <p><u>If the answer is "no," and the SHPO or THPO agrees, then the process may stop.</u></p>
<p><u>5: Consult with SHPO or THPO and other appropriate parties to develop measures that mitigate adverse effects on historic properties. The consultation may result in a Memorandum of Agreement (MOA), signed by each party, which outlines each party's responsibilities for implementing the mitigation measures.</u></p>	<p><u>If the parties sign an MOA, the agency must ensure that the undertaking is carried out in accordance with the MOA.</u></p> <p><u>If the parties cannot agree and do not execute an MOA, then proceed to Activity 6.</u></p>
<p><u>6. Any party terminating consultation shall notify the other parties in writing. 36 CFR 800.7 outlines the procedures to follow, depending on which party terminates the consultation.</u></p>	<p><u>If there is a failure to reach resolution, the agency head may decide to approve proceeding with the undertaking after following the applicable requirements of 36 CFR 800.</u></p>

## **D.5.2: Research Awards**

### **D.5.2.1: Human Subjects in Research**

The regulations for the protection of human subjects in 45 CFR 46, Basic HHS Policy for Protection of Human Subjects (Subpart A of which is also known as the Common Rule) implement Section 491(a) of the Public Health Service (PHS) Act. The regulation applies to all HHS awards involving human subjects research.

The Office for Human Research Protections (OHRP), Office of the Assistant Secretary for Health, is the office with HHS-wide responsibility for research involving human subjects under this policy. Foreign applicant organizations applying for awards for research involving human subjects are required to comply with 45 CFR 46. There is a single version of the Federal- wide Assurance (FWA) form and Terms of Assurance for domestic (U.S.) and international (non- U.S.) institutions.

All NOFOs must clearly state the parameters of human subject use, and indicate the necessary information and assurances required from the applicant prior to the issuance of award.

Recipients, whether domestic or international, must safeguard the rights and welfare of human subjects in HHS-conducted or -supported activities (45 CFR 46.101(a) and 45 CFR 46.103(a)).

As a matter of grants policy, recipients must ensure that subrecipients follow these requirements, as applicable. Recipients must facilitate the process for obtaining prior approval for subrecipients if not approved in the award.

Some human subject research is exempt from the requirements of the HHS regulations. The categories of research that qualify for exemption are found at 45 CFR 46.104(d)(1)-(8). OHRP guidance recommends that investigators not be given the authority to make an independent determination that human subjects research is exempt. HHS retains final authority as to whether a particular research study supported by HHS is exempt from the HHS regulations.

Contact OHRP for any related questions.

OHRP is the only component of HHS with the delegated authority to interpret and enforce the regulatory requirements in 45 CFR 46.101(c) as to whether a particular activity is regulated by 45 CFR 46.

Before engaging in HHS award-supported non-exempt human subjects research, the recipient, including any collaborating organization under a subaward, must:

- Hold or obtain an OHRP-approved FWA (45 CFR 46.103(a)); and
- Certify to the agency, within the time frame specified, that the research has been reviewed and approved by an Institutional Review Board (IRB) designated in the FWA (45 CFR 46.103(d))

The OHRP web site contains a listing of those organizations with OHRP-approved assurances.

The agency must make sure that an applicant and any collaborating organizations have the required assurance and certification in place, before:

- Making an award, unless a specific condition is included in the NoA restricting expenditures for this purpose.
- Non-exempt human subjects research is initiated, if non-exempt research is planned but will not occur until a subsequent phase of the project, by including a specific condition in the NoA that restricts expenditures for this purpose; or

- Approving a post-award change in scope that will result in non-exempt human subjects research.

The award condition must indicate that the recipient may not draw down funds, obligate or expend federal funds, or claim required cost sharing costs for research involving human subjects at any site engaged in non-exempt research until all requirements for are met. The prohibition on expenditures may extend to the whole project if that activity is not severable. The recipient must be advised that failure to comply within the stated time may result in full or partial termination of the award.

#### **D.5.2.2: Research Involving Animals and Their Welfare**

Pursuant to 42 U.S.C. 289d (Section 495 of the Public Health Service Act), requirements related to the use of live, vertebrate animals apply to all PHS agencies and to other research-related awards. PHS agencies include AHRQ, CDC, FDA, HRSA, IHS, NIH, and SAMHSA. These requirements apply to recipients, subrecipients, and contractors, whether foreign or domestic.

The requirements:

- Are included in the Public Health Service Policy on Humane Care and Use of Laboratory Animals (PHS Policy),
- Incorporate the U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training,
- Require the recipient to maintain an animal care and use program based on the Guide for the Care and Use of Laboratory Animals; and
- Require compliance, as applicable, with the Animal Welfare Act and other federal statutes and regulations relating to animals.

Recipients must establish appropriate policies and procedures to ensure the humane care and use of animals and are ultimately responsible for compliance with the PHS Policy. Information about animal welfare topics is available from the Office of Laboratory Animal Welfare (OLAW), Office of Extramural Research, National Institutes of Health.

Before engaging in any HHS award-supported research using animals, applicants must:

- Have a current Animal Welfare Assurance approved by OLAW (the list of organizations with approved assurances is available at the OLAW website for both domestic institutions and foreign institutions;
- Provide, as part of the application or just-in-time, verification of current Institutional Animal Care and Use Committee (IACUC) approval of the animal activities. (PHS Policy requires that IACUC approval must have occurred within three years of the period of performance start date for new or renewal awards and at least every three years after that); and
- Comply with the agency's internal IACUC requirements if a cooperative agreement.

Reporting requirements under the PHS Policy include an annual report to OLAW describing any change in the institution's program for animal care and use as described in the Assurance, changes in IACUC

membership, and the dates the IACUC conducted its semiannual evaluations of the institution's program and facilities.

Foreign applicant organizations applying for awards for activities involving animals are required to comply with PHS Policy or provide evidence that acceptable standards for the humane care and use of animals will be met. This includes providing OLAW with an Animal Welfare Assurance for Foreign Institutions, which constitutes institutional assurance and certification of compliance with the applicable laws, regulations, and policies of the jurisdiction in which the research will be conducted, and a commitment to follow the International Guiding Principles for Biomedical Research Involving Animals.

No award to an individual will be made unless that individual is affiliated with an assured organization that accepts responsibility for compliance with the PHS Policy.

If the applicant does not have a current Animal Welfare Assurance (or made alternative arrangements, e.g., an inter-institutional assurance acceptable to OLAW) or has not provided the required verification by the time an award will be made, the agency will notify the PO and the applicant and the agency may:

- Delay the award until the recipient and all performance sites are operating in accordance with approved Animal Welfare Assurances and the organization has provided verification of IACUC approval of those sections of the application that involve use of animals; or
- Include a specific condition in the NoA restricting expenditures.

The award condition must prohibit drawdown or expenditure of funds under the award (whether federal funds or any required cost sharing) until the requirements have been met. The prohibition on expenditures may extend to the whole project if that activity is not severable. The recipient must be advised that failure to comply within the stated time may result in full or partial termination of the award.

An agency may not approve a post-award change that will result in research involving animals unless the agency determines that an appropriate Animal Welfare Assurance has been negotiated with OLAW and the required IACUC verification has been received.

Reporting requirements under the PHS Policy include an annual report to OLAW describing any change in the institution's program for animal care and use as described in the Assurance, changes in IACUC membership, and the dates the IACUC conducted its semiannual evaluations of the institution's program and facilities. The IACUC, through the institutional official signing the Assurance, must promptly report any serious or continuing noncompliance with the PHS Policy, serious deviations from the *Guide for the Care and Use of Laboratory Animals*, and any IACUCs.

#### **D.5.2.3: Research Involving Potential Procurement of Synthetic DNA and RNA**

Pursuant to EO 14110 Section 4.4(b), beginning April 26, 2025, all scientific research awards that have the potential to procure synthetic nucleic acids or benchtop nucleic acid synthesis equipment need to have a condition that requires recipients to adhere to and use HHS funds to procure these materials from sources adhering to the Office of Science and Technology Policy (OSTP) Framework for Nucleic Acid Synthesis Screening. This includes, but is not limited to, research with the potential to procure synthetic DNA and RNA, as well as whole organism genomes (e.g., viruses, bacteria) containing any synthetic nucleic acid 200 nucleotides or greater, and benchtop equipment capable of synthesizing nucleic acids. Please see the OSTP Framework for Nucleic Acid Synthesis Screening for additional guidance and definitions of terms. The requirement to use the framework applies to all work performed under the

award.



## Appendix E: Financial Assistance General Certifications and Representations

In almost all instances, applicants must have a SAM.gov registration. Agreement to a list of general certifications and representations is required for registration.

Please go to the following page to see updated Certifications and Representations:

<https://www.hhs.gov/sites/default/files/financial-assistance-general-certification-representations.pdf>



<b>Summary report:</b> <b>Litera Compare for Word 11.8.0.56 Document comparison done on</b> <b>9/9/2025 5:05:53 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> hhs-grants-policy-statement-july-2025.pdf	
<b>Modified filename:</b> hhs-grants-policy-statement-oct-2025.pdf	
<b>Changes:</b>	
<u>Add</u>	1640
<del>Delete</del>	1333
<del>Move From</del>	17
<u>Move To</u>	17
<u>Table Insert</u>	130
<del>Table Delete</del>	32
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	1
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	3170